

LOWELL DECL. EX. 13

July 27, 2021

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SHABTAI SCOTT SHATSKY,	-	-	-
individually and as)	Case No. 18-Civ. 12355	
personal representative)		
of the Estate of Keren)	VIRTUAL VIDEOTAPED	
Shatsky, J ANNE)	DEPOSITION OF ABDEL	
SHATSKY, individually)	JABBAR SALEM	
and as personal)		
representative of the)		
Estate of Keren)		
Shatsky, TZIPPORA)		
SHATSKY SCHWARZ, YOSEPH)		
SHATSKY, SARA SHATSKY)		
TZIMMERMAN, MIRIAM)		
SHATSKY, DAVID RAPHAEL)		
SHATSKY, GINETTE LANDO)		
THALER, individually)		
and as personal			
representative of the			
Estate of Rachel			
Thaler, LEOR THALER,			
ZVI THALER, ISAAC			
THALER, HILLEL			
TRATTNER, RONIT			
TRATTNER, ARON S.			
TRATTNER, SHELLEY			
TRATTNER, EFRAT			
TRATTNER, HADASSA			
DINER, Yael HILLMAN,			
STEVEN BRAUN, CHANA			
FRIEDMAN, ILAN			
FRIEDMAN, MIRIAM			
FRIEDMAN, YEHIEL			
FRIEDMAN, ZVI FRIEDMAN,			
and BELLA FRIEDMAN,			

Plaintiffs,

against

July 27, 2021

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THE PALESTINE
LIBERATION ORGANIZATION
and THE PALESTINIAN
AUTHORITY (a/k/a "The
Palestinian Interim
Self-Government
Authority" and/or "The
Palestinian National
Authority"),

Defendants.

- - -

July 27, 2021

1 VIRTUAL VIDEOTAPED DEPOSITION OF ABDEL
2 JABBAR SALEM, witness herein, called by the
3 Plaintiffs, for examination, taken pursuant to
4 the Federal Rules of Civil Procedure, by and
5 before Karen A. Nickel, a Certified Realtime
6 Reporter and a notary public in and for the
7 Commonwealth of Pennsylvania, held remotely
8 with all parties appearing from their
9 respective locations, on Tuesday, July 27,
10 2021, at 7:30 a.m.

11 COUNSEL PRESENT:

12 For the Plaintiffs:

13 Melissa H. Maxman, Esq.
14 Ronald F. Wick, Esq. (Admitted Pro Hac Vice)
15 Cohen & Gresser, LLP
2001 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006

16 Stephen M. Sinaiko, Esq.
17 Cohen & Gresser, LLP
800 Third Avenue
18 New York, NY 10022

19 For the Defendants:

20 Mitchell R. Berger, Esq.
21 Joseph Alonzo, Esq.
Squire Patton Boggs
2550 M Street NW
Washington, DC 20037

22 Also Present: Elizabeth Bezverkha
23 Eszter Vincze
Corey Wainaina, Videographer
24 Hadeer Al Amiri, Interpreter
Safwan Al-Amin, Check
25 Interpreter

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P R O C E E D I N G S

VIDEOGRAPHER: Good morning, everyone. We are now on the record. Participants should be aware that this proceeding is being recorded and, as such, all conversations held will be recorded unless there is a request and agreement to go off the record.

This is the remote video-recorded deposition of Abdel Jabbar Salem. Today is Tuesday, July 27, 2021. The time is now 11:22 UTC time. We are here in the matter of Shatsky versus PLO.

My name is Corey Wainaina, remote video technician on behalf of US Legal Support located at 90 Broad Street, New York, New York. I am not related to any party in this action, nor am I financially interested in the outcome.

At this time, will the reporter, Karen Nickel, on behalf of US Legal Support, please enter the statement for remote proceedings into the record.

THE REPORTER: The attorneys participating in this deposition acknowledge that I am not physically present in the

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1 deposition room and that I will be reporting
2 this deposition remotely.

3 They further acknowledge that, in
4 lieu of an oath administered in person, the
5 witness will verbally declare his testimony in
6 this matter is under penalty of perjury.

7 The parties and their counsel
8 consent to this arrangement and waive any
9 objections to this manner of reporting. Please
10 indicate your agreement by stating your name
11 and your agreement on the record.

12 MS. MAXMAN: Melissa Maxman, I
13 agree.

14 MR. BERGER: This is Mitchell
15 Berger on behalf of the Defendants, and I
16 agree.

17 (The interpreter was duly
18 sworn.)

19 ABDEL JABBAR SALEM, a witness herein,
20 having been first duly sworn, was examined and
21 testified as follows:

22 EXAMINATION

23 BY MS. MAXMAN:

24 Q. Good morning, or good afternoon. I
25 don't know what time it is where you are.

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1 Thank you for being here today. My
2 name is Melissa Maxman. I'm a partner at Cohen
3 & Gresser, and we represent the Plaintiffs in
4 this matter.

5 Could you please state your name and
6 address for the record.

7 A. Good afternoon. My name is Abdel
8 Jabbar Mohammad Salem.

9 Q. And your address?

10 A. My address is Ramallah, Palestine.

11 Q. And how do you spell your name, sir?

12 A. How do I spell my name?

13 Q. Yes.

14 A. A-B-D-E-L, J-A-B-B-A-R, S-A-L-E-M.

15 Q. Thank you. What is your occupation
16 and title?

17 A. I work at -- I work in the financial
18 ministry. I work as director of the salary and
19 financial in the Palestinian government in
20 Ramallah.

21 Q. Director of salary and financial,
22 did I hear that correctly?

23 A. The director of the salary, the
24 wages.

25 Q. Okay. Thank you. Have you ever had

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1 your deposition taken before?

2 A. No.

3 Q. I'm going to be asking you questions
4 throughout today and tomorrow, and I would like
5 to go over some ground rules first so that you
6 understand the process.

7 A. Yes, ma'am.

8 Q. Do you understand that you are
9 testifying here today under oath?

10 A. Yes, correct.

11 Q. And the court reporter will be
12 transcribing everything we say. So to make
13 sure that the record is accurate, and
14 especially since this deposition is taking
15 place via video remotely because of the COVID
16 pandemic, it's important that we not speak over
17 each other and that only one person speaks at a
18 time.

19 So please wait until I finish my
20 question before you start answering, and I will
21 wait -- I will try to wait until you finish
22 your answer before I ask another question.

23 Is that understood?

24 A. (Witness nodded head affirmatively.)

25 Q. I couldn't hear you, I'm sorry. I

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1 think it's the audio. He said yes?

2 A. Yes.

3 Q. Thank you. It is also important for
4 you to respond to the questions verbally
5 because, otherwise, the court reporter cannot
6 transcribe what you said. She cannot
7 transcribe a head nod, yes or no. Is that
8 understood?

9 A. Understood.

10 Q. Thank you. If you don't understand
11 one of my questions, please say so. I will try
12 to rephrase it for you if you don't understand
13 it. But if you answer my question, I will
14 assume you understood my question; is that
15 understood?

16 A. Understood.

17 Q. Your counsel may object to my
18 questions. Unless your counsel instructs you
19 not to answer a question, you should go ahead
20 and answer the question even though there is an
21 objection pending.

22 Do you understand that?

23 A. Understood.

24 Q. I may take periodic breaks during
25 the deposition. If you need a break, please

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1 let me know, me or your attorney know, and I
2 will do my best to accommodate your request.

3 However, if a question is pending, I
4 ask that you answer the question first before
5 we take a break. All right?

6 A. Thank you.

7 MS. MAXMAN: Because we are
8 here remotely during the pandemic, we would ask
9 that the Defendants confirm that pursuant to
10 Rule 30(b)(4) of the Federal Rules of Civil
11 Procedure, today's deposition may be taken by
12 video conference as we are proceeding, and,
13 pursuant to Rule 29, parties also stipulate
14 that Ms. Nickel is an appropriate officer
15 before whom this deposition may be taken even
16 though she is in Pennsylvania and the witness
17 is physically located in Jordan.

18 Do we agree, Mr. Berger?

19 MR. BERGER: Yes, we do agree.

20 MS. MAXMAN: Thank you.

21 BY MS. MAXMAN:

22 Q. Is there any reason that you can
23 think of that you will not be able to answer my
24 questions today fully and accurately and
25 truthfully?

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1 A. No, there isn't.

2 Q. Just so you understand, we are going
3 to be referring to the Defendants today as --
4 the Palestinian Authority, I'm going to refer
5 to as PA, and I will be referring to the
6 Palestinian Liberation Organization as PLO.

7 Do you understand that?

8 A. Yes.

9 Q. I'm going to start with your
10 personal background, with your educational
11 background. What is your highest level of
12 education?

13 A. I have a Bachelor degree in
14 accounting from An-Najah University.

15 Q. Could you spell the name of your
16 University?

17 A. I'm not that good in English.

18 Q. Okay. You testified that you are
19 the collector of salary wages. Before your
20 position with -- let me back up.

21 Who is your employer today?

22 A. Not the director, the director of --
23 yes.

24 Q. Okay. Thank you. I misheard.
25 Thank you.

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1 Who is your employer today?

2 A. My director is the Minister of
3 Finance.

4 Q. That is the person to whom you
5 report?

6 A. Correct.

7 Q. Yes?

8 MR. BERGER: Counsel, I think
9 we understood your question. I think the
10 translation was who is your boss rather than
11 for what organization do you work.

12 MS. MAXMAN: Okay. Thank you.

13 BY MS. MAXMAN:

14 Q. For what organization do you work
15 currently?

16 A. The Ministry of Finance.

17 Q. The Ministry of Finance of what
18 organization?

19 A. The Palestinian Authority.

20 Q. Okay. And when you said you worked
21 for -- your boss was the Minister of Finance,
22 who is that person?

23 A. Shukri Bishara.

24 Q. Aside from director of salary, do
25 you have any other titles with the Palestinian

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1 Authority?

2 A. No.

3 Q. Do you hold any other titles within
4 the PLO?

5 A. No.

6 Q. And this Shukri Bishara -- forgive
7 me if I'm not pronouncing his name correctly --
8 is -- give me a second.

9 Your boss, does he hold any
10 positions with the PLO?

11 A. No. Only the Minister of Finance.

12 Q. For the Palestinian Authority?

13 A. Yes.

14 Q. And who appointed the Minister of
15 Finance?

16 A. I assume the Prime Minister.

17 Q. The Prime Minister of the
18 Palestinian Authority?

19 A. Yes, correct.

20 Q. How long have you held your current
21 position?

22 A. Ten years.

23 Q. Have you had other positions within
24 the PA?

25 A. Before ten years, I was working in

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1 the treasury in the same position, the finance
2 and the Ministry of Finance, and the payment
3 department.

4 Q. And before that -- well, how long
5 were you in that position?

6 A. From 1995 up until 2010.

7 Q. And before 1995, what was your --
8 what was your employment?

9 A. I was not working anywhere. I was
10 just graduating from college. And then I
11 joined the Ministry of Finance.

12 Q. Okay. So since college, you have
13 been employed by the Palestinian Authority --
14 I'm sorry, let me rephrase that.

15 Since 1995 when you graduated from
16 college, your only employer has been the
17 Palestinian Authority?

18 A. Correct.

19 Q. What are your current
20 responsibilities as director of salary for the
21 ministry of finance?

22 A. I work as the general director of
23 the salaries, of the wages, in the Ministry of
24 Finance. This includes preparing, collecting
25 and, up until the distribution of the salaries

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1 in the Palestinian Authority.

2 Q. And are you the director of the
3 salaries for everyone who works for the
4 Palestinian Authority?

5 A. Yes, correct.

6 Q. How many people work for the
7 Palestinian Authority?

8 A. It ranges from employees and semi
9 employees around 120,000 workers.

10 Q. What do you mean by "semi
11 employees"?

12 MR. BERGER: I am going to
13 object to the question as being outside the
14 scope of this jurisdictional discovery
15 deposition. We have been trying to give you
16 some leeway on background, but the Judge's
17 admonition is to stick to the predicates of the
18 jurisdictional statute.

19 You may answer, but we're going to
20 see how this goes.

21 THE WITNESS: When I say semi
22 employment, I mean, this means some people who
23 work as a contract or temporary, that work for
24 a period of time.

25 BY MS. MAXMAN:

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1 Q. Do you also oversee payments to
2 prisoners?

3 A. I am responsible for overseeing the
4 distribution of the payment. The collection
5 and these responsibilities are in the prison
6 affairs.

7 Q. What are you collecting?

8 A. Like, what do you mean by that?

9 Q. You said -- I believe you said, I am
10 responsible for overseeing the distribution of
11 the payments and the collection. And you said,
12 and these responsibilities are in the prison
13 affairs.

14 And my question is, what do you mean
15 by "collection"?

16 A. I oversee the information, examine
17 the information that I receive from the
18 prisoners' affairs, because these are not
19 salaries. These are incentives that are given.

20 So I examine them and oversee them.
21 And then it gets distributed.

22 MR. BERGER: Excuse me. We
23 object to the translation. He did not use the
24 word "incentives" in his comment. "Allocation"
25 would be the correct translation.

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1 MS. MAXMAN: Mr. Berger, are
2 you using a check translator on your end?

3 MR. BERGER: I have an Arabic-
4 proficient associate listening to the
5 translation. He is serving as our check
6 translator.

7 BY MS. MAXMAN:

8 Q. Okay. So you're saying -- let me
9 ask the question again because I am now
10 completely confused.

11 My question is, what do you mean by
12 "collection"?

13 A. By "collection," I mean the
14 information that we get as a CD, and we examine
15 them -- examine the allocations and the
16 department IT before handling it to prisoners'
17 affairs to avoid inequality.

18 Q. You mean you get it on a compact
19 disk, a CD?

20 MR. BERGER: We object to the
21 translation. The witness did not use the word
22 "inequality." He used the word "double
23 counting."

24 INTERPRETER: Sorry. This is
25 the interpreter. This is "alaizdiwajia," which

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1 is not double counting.

2 MR. BERGER: Duplication is
3 our translation.

4 MS. MAXMAN: Can we go off the
5 record for a minute, please?

6 MR. BERGER: Certainly.

7 THE VIDEOGRAPHER: We are now
8 off the record. The time is 11:50 UTC time.

9 (Discussion held off the
10 record.)

11 THE VIDEOGRAPHER: We are
12 back on the record. The time is 11:53 UTC
13 time.

14 MS. MAXMAN: Mr. Berger, can
15 you please identify the associate that is with
16 you that is serving as your check translator?

17 MR. BERGER: Yes, I did that
18 off the record.

19 MS. MAXMAN: We can't hear
20 you, sir.

21 MR. BERGER: Can you hear me
22 now?

23 MS. MAXMAN: Yes.

24 MR. BERGER: I did that with
25 the court reporter while you were off the

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1 record. His first name is Safwan, S-A-F-W-A-N,
2 last name Al-Amin, A-L, dash, A-M-I-N.

3 MS. MAXMAN: Okay. Thank you.

4 MR. BERGER: While we are
5 talking about check translation, and maybe this
6 will save you some time, but let me put it on
7 the record, which is that our translation of
8 the word you are asking about, "collection,"
9 was, in fact, more properly translated as
10 "preparation."

11 MS. MAXMAN: Okay. We will
12 leave that for a moment and come back to it.

13 BY MS. MAXMAN:

14 Q. Mr. Salem, you realize you have been
15 designated as the 30(b)(6) deponent about the
16 Palestinian Authority and the PLO today; do you
17 understand that?

18 INTERPRETER: I'm sorry, this
19 is the interpreter. Can you repeat the
20 question?

21 MS. MAXMAN: Sure.

22 BY MS. MAXMAN:

23 Q. Are you aware that you have been
24 designated as the corporate witness for both
25 the PA and the PLO today?

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1 A. Yes, I know that.

2 MS. MAXMAN: Can we please put
3 up Tab 1 which, court reporter, I will be
4 entering as Exhibit 1 for the record. It is
5 the 30(b)(6) deposition notice that is dated
6 June 16, 2021, and I will ask that we scroll
7 through the exhibit.

8 (Deposition Exhibit No. 1 was
9 marked for identification.)

10 BY MS. MAXMAN:

11 Q. And my question for the witness is,
12 have you seen this document before?

13 A. Yes.

14 Q. And what -- when did you first see
15 it?

16 A. When I met with the attorneys.

17 Q. When was that?

18 A. Approximately, a month ago.

19 Q. And you are appearing today as a
20 witness pursuant to this notice; correct?

21 A. Correct.

22 Q. Who designated you, who decided that
23 you would be the designee to testify on behalf
24 of the Palestinian Authority?

25 A. I received this from the Minister of

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1 Finance, being the director of the salaries.

2 Q. And that is the gentleman who is
3 your boss that we discussed before?

4 A. He is the minister.

5 Q. So that's the same person; yes?

6 A. Correct.

7 Q. Thank you. Is he also the person
8 who designated you to testify on behalf of the
9 PLO?

10 A. The same thing.

11 Q. Have you read through or had read to
12 you the deposition topics on Pages 2 and 3 of
13 this notice?

14 A. Yes.

15 Q. And are you the person most
16 knowledgeable about these topics with respect
17 to the Palestinian Authority?

18 A. I may be.

19 Q. Are there others with better
20 knowledge than you of these topics?

21 A. I don't know.

22 Q. Are you the person most
23 knowledgeable about these topics on behalf of
24 the PLO?

25 A. I may be.

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1 Q. Are there others with more
2 knowledge?

3 A. I don't know.

4 Q. Did you speak with others at the PA
5 or the PLO in order to educate yourself to be
6 able to talk about -- to be able to respond to
7 the questions in the Subpoena?

8 A. No. Just prepared the documents
9 that is needed for me, and I had an insight on
10 them.

11 Q. An insight on them?

12 A. I had reviewed them, yes.

13 MR. BERGER: Excuse me, I need
14 to go off the record to confer with the witness
15 for a moment.

16 THE VIDEOGRAPHER: We are now
17 off the record. The time is 12:02 UTC time.

18 (Discussion held off the
19 record.)

20 THE VIDEOGRAPHER: We are
21 back on the record. The time is 12:03 UTC
22 time.

23 MR. BERGER: This is Mitch
24 Berger. For the record, while we were off the
25 record, I spoke with the witness about whether

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1 he spoke, Ms. Maxman, as your question was,
2 with others in order to educate himself to be
3 able to respond to the questions. And --

4 MS. MAXMAN: Mr. Berger, I
5 can't hear you. I apologize. Could you speak
6 into the microphone.

7 MR. BERGER: If I speak any
8 more into the microphone, I'm going to be
9 swallowing. Can you hear me now?

10 MS. MAXMAN: I can, and I am
11 sorry if the audio is not adequate on both
12 ends.

13 MR. BERGER: Okay. I said
14 while we were off the record, I spoke with the
15 witness in respect of Ms. Maxman's question as
16 to whether there were others at the PA or the
17 PLO with whom he spoke in order to educate
18 himself in order to be able to respond to the
19 questions in the Subpoena.

20 I believe he has additional
21 information if you would like to reask the
22 question, or we can ask the witness to go ahead
23 and provide that additional information.

24 BY MS. MAXMAN:

25 Q. Please go ahead and provide that

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1 additional information that your lawyer just
2 described.

3 A. So to answer your question, yes, I
4 spoke with employees in the level of curtailing
5 these documents. While we were curtailing
6 these documents, we had three employees who
7 were trying to collect information. We spoke
8 with the legal department and with the
9 prisoners' affairs to -- in order to be able to
10 educate and collect these informations.

11 Q. Can you name the people in the legal
12 department or the prisoner affairs with whom
13 you spoke?

14 A. I spoke with the attorney Abdul
15 al-Hanani. He is Deputy Assistant. We
16 communicated to speakers, and I had employees
17 under me. One of them is Imat Oulia, and the
18 second one is Mohammad Ozetas, who used to
19 inquire and collect the information that I
20 need.

21 Q. Does the attorney that you
22 mentioned -- is he employed by the Palestinian
23 Authority?

24 A. Yes, they are attorneys in the
25 prisoners' affairs.

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1 Q. For the PA?

2 A. The prisoners' affairs for both the
3 PA and the PLO.

4 Q. And the employees that you talked to
5 who were not attorneys, are they employed by
6 the Palestinian Authority?

7 A. Yes, they are employed by the PA and
8 some of them in the salary department.

9 Q. Are any of them employed by the PLO?

10 A. All the employees are probably
11 assigned or employed by the Minister of
12 Finance, not the Minister of Finance, but by
13 the Palestinian Authority. Even the ones for
14 the PLO are employed by the Palestinian
15 Authority.

16 Q. What did you do to prepare for this
17 deposition?

18 A. Whenever I receive the list of names
19 that you are inquiring about, we had great
20 difficulty, and I prepared a team of course
21 because two of the names were just names
22 without identification numbers, or ID numbers,
23 and we had to communicate the census to try to
24 inquire about these names, and I communicated
25 also the prisoner affairs, and I was overseeing

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1 the information whenever I received such
2 information to collect them.

3 Q. Did you meet with anyone regarding
4 this topic to prepare for the deposition?

5 A. I met with the attorneys.

6 Q. How many times did you meet with the
7 attorneys?

8 A. I think four times.

9 Q. For how long each time?

10 A. Four hours, five hours, three hours,
11 around that time.

12 Q. Okay. What documents did you review
13 to prepare for this deposition?

14 A. The documents that were submitted to
15 you after collecting them and taking them from
16 the prisoners' affairs, I had the time to look
17 at it, and we submitted it to you.

18 Q. Is prisoners affair, is the
19 prisoners' affairs department part of the PLO?

20 A. It was in the past, but now it
21 belongs to the Palestinian Authority.

22 Q. When was that change made?

23 A. Since 2018, 2019.

24 Q. So you're saying prisoners' affairs
25 is now part of the PA?

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1 A. Yes, correct.

2 Q. Does the PA make the payments to the
3 prisoners?

4 MR. BERGER: Object to the
5 form of the question. Assumes facts not in
6 evidence.

7 BY MS. MAXMAN:

8 Q. You may answer.

9 A. I didn't understand your question.

10 Q. Okay. Does the PA make the payments
11 to the prisoners?

12 MR. BERGER: Same objection to
13 form. You may answer.

14 THE WITNESS: The PA pays the
15 allocations for the families and the members of
16 the prisoners, and the PA make the payments,
17 all the payments, and part of these payments
18 goes towards the families of the prisoners.

19 BY MS. MAXMAN:

20 Q. Where does the PA obtain the funds
21 to make these payments?

22 A. It's the income that the PA receives
23 from the taxes, from the customs, from the
24 merchants, from the revenues.

25 MS. MAXMAN: I would like to

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1 put Tab 7 up on that screen instead of Tab 1.

2 (Deposition Exhibit No. 2 was
3 marked for identification.)

4 BY MS. MAXMAN:

5 Q. Now, for the record, while the tab
6 is being prepared, this is a multipage document
7 produced to us from the PA and the PLO and a
8 certified English translation of the document
9 that we had done.

10 It's Bates Nos. JD 00250 to JD
11 00254. And I'm going to ask, Elizabeth, can
12 you scroll through this. You will see what
13 we're showing you is the translated version.

14 Elizabeth, stop here. Go back.

15 MS. BEZVERKHA: Is there a
16 specific page you would like open or --

17 MS. MAXMAN: I would like a
18 page that's not fully redacted so that we can
19 talk about -- so how about JD 0026. Can you
20 find that one, Elizabeth?

21 MS. BEZVERKHA: Yes.

22 BY MS. MAXMAN:

23 Q. Do you recognize this document,
24 Mr. Salem?

25 A. I cannot. Can you enlarge it? Can

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1 I see it on the paper that I have or --

2 Q. Certainly.

3 A. I saw it.

4 MR. BERGER: Excuse me,
5 counsel, the witness has paper copies of these
6 documents which might facilitate your
7 questioning.

8 MS. MAXMAN: Thank you so
9 much.

10 MR. BERGER: If you would like
11 him to look at them.

12 MS. MAXMAN: I would. Thank
13 you.

14 MR. BERGER: Okay. Very good.
15 I believe he has it in front of him now.

16 MS. MAXMAN: Okay. And I'm
17 looking at Bates No. JD 0026?

18 MR. BERGER: That's what he
19 has in front of him in Arabic, which I believe
20 is what you have up on the screen.

21 MS. MAXMAN: Perfect.

22 BY MS. MAXMAN:

23 Q. My question to the witness is, have
24 you seen this document before?

25 A. Yes, at the time of preparing these

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1 documents.

2 Q. And am I correct that these are
3 payment records for prisoners, that this is a
4 -- that this page, and all of the pages are
5 records of payments to prisoners?

6 MR. BERGER: Before he
7 answers, I'm going to object to the form of the
8 question, but you may answer.

9 THE WITNESS: Yes. This is
10 allocation payments for this specific prisoner.

11 BY MS. MAXMAN:

12 Q. And in this case, the specific
13 prisoner is Mohammed Attia Mahmoud Abu Wardeh?

14 MR. BERGER: We have an
15 objection to the antecedent translation. I
16 believe he said to the families of the
17 prisoners. That is our translation. Ask the
18 translator if he missed that.

19 INTERPRETER: I'm sorry, can
20 you repeat that?

21 MR. BERGER: He mentioned,
22 according to our translation, families of
23 prisoners, which you omitted from your
24 translation. We object to the translation on
25 that basis.

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1 INTERPRETER: Okay. So it's
2 the payment for families of the prisoners.

3 BY MS. MAXMAN:

4 Q. And in the case of the page we are
5 looking at, these would be payments to the
6 families of Mr. Abu Wardeh?

7 A. Yes, correct.

8 MS. MAXMAN: Do you have
9 before you in paper, and, Mr. Berger, I can ask
10 you this, does he have before him in paper all
11 of the Bates numbers I mentioned from JD 250 to
12 JD 534?

13 MR. BERGER: We have them
14 accessible, yes.

15 MS. MAXMAN: Okay, great. I'm
16 going to be asking general questions about the
17 nature of these documents, and so I was just
18 trying to find a -- I was trying to find a page
19 that actually had writing on it rather than
20 just redactions.

21 BY MS. MAXMAN:

22 Q. Am I correct, Mr. Salem, that these
23 records of payments are kept in the normal
24 course of business by the Palestinian
25 Authority?

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1 A. Yes, of course. It is kept in the
2 Ministry of Finance after making the payment on
3 the monthly basis.

4 Q. And are they also kept in the normal
5 course of business by the PLO?

6 A. These documents are prepared for in
7 the prisoners' affairs and it's sent to the
8 Ministry of Finance and kept in the Ministry of
9 Finance stored on a CD.

10 Q. Is the prisoners' affairs department
11 part of the Palestinian Authority?

12 A. I think so.

13 Q. What is the Commission For Prisoners
14 and Ex-Prisoners?

15 MR. BERGER: Excuse me,
16 counsel. We understand your question but don't
17 believe the translation was of the question you
18 asked, which is what is the Commission For
19 Prisoners and Ex-Prisoners.

20 MS. MAXMAN: That is the
21 question I asked.

22 MR. BERGER: If we want to
23 retranslate the question, what we heard from
24 the translation was the word "payments" was put
25 into the translation.

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1 INTERPRETER: I'm sorry, this
2 is the interpreter. I didn't say commissions.

3 MR. BERGER: Right. I think
4 maybe there is a misunderstanding on the part
5 of the translator whether these are commission
6 payments -- look, we understand what you want
7 to know, counsel. We're happy to have him
8 answer it. You want to know what is the entity
9 within the Palestinian government called the
10 Commission of Prisoners and Ex-Prisoners. I'm
11 happy to have him answer that question.

12 MS. MAXMAN: Okay. Just to be
13 clear, I have it as the Commission For
14 Prisoners and Ex-Prisoners, but if it's the
15 Commission of Prisoners and Ex-Prisoners, I
16 would be happy to --

17 MR. BERGER: I am happy to
18 stand corrected.

19 INTERPRETER: Sorry, can you
20 repeat the question?

21 BY MS. MAXMAN:

22 Q. What is the Commission For Prisoners
23 and Ex-Prisoners?

24 INTERPRETER: This is
25 interpreter. When you say commission --

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1 THE WITNESS: It is the
2 prisoners' affairs department.

3 BY MS. MAXMAN:

4 Q. Okay. So that's the same prisoners'
5 affairs department that's part of the
6 Palestinian Authority that you have been
7 referring to earlier in this deposition?

8 A. The finance for it is part of the
9 general finance from the Palestinian Authority
10 and does the allocation for the prisoners.

11 Q. Let me clarify my question. You
12 have previously been -- strike that.
13 Previously, you mentioned the prisoners'
14 affairs department within the PA. Is that same
15 thing as the Commission For Prisoners and
16 Ex-Prisoners?

17 A. Correct.

18 Q. Thank you. So going forward, I am
19 going to refer to the Commission For Prisoners
20 and Ex-Prisoners as the prisoners' affairs
21 department. Can you --

22 A. It is its name, the name is the
23 Commission For The Prisoners and Ex-Prisoners.

24 Q. Okay. But for shorthand, I'm going
25 to call it the prisoners' affairs -- I'm going

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1 to call it prisoners' affairs.

2 A. Okay, prisoners' affairs.

3 Q. Does prisoners' affairs make
4 payments to certain prisoners and ex-prisoners?

5 A. Can you repeat the question? I
6 didn't understand it.

7 Q. What is -- strike that.

8 Does prisoners' affairs make
9 payments to certain prisoners and ex-prisoners?

10 A. No. It's prepared in the prisoners'
11 affairs, and it's distributed through the
12 Ministry of Finance.

13 Q. Okay. And that's your department?

14 A. In the general department that is
15 examined in the IT department, and it's
16 distributed at the end of the month.

17 Q. And it's distributed at the end of
18 the month by the Ministry of Finance?

19 A. Yes, correct.

20 MS. MAXMAN: I'm going to take
21 a five-minute break, just a comfort break, and
22 then we'll go to another topic.

23 MR. BERGER: Sounds good to
24 us. Thank you.

25 THE VIDEOGRAPHER: We are now

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1 off the record. The time is 12:34 UTC time.

2 (Discussion held off the
3 record.)

4 THE VIDEOGRAPHER: We are
5 back on the record. The time is 12:45 UTC
6 time.

7 BY MS. MAXMAN:

8 Q. As of April 18, 2020, who was the
9 head of the prisoners' affairs?

10 A. The PA.

11 Q. I mean who is the individual who
12 heads --

13 A. Qadri Abu Bakr.

14 Q. Does Mr. Bakr have any other titles
15 within the PA?

16 A. No. He is the head of the director
17 of the prisoners' affairs.

18 Q. Does he have any other titles within
19 the PLO?

20 A. I don't think so.

21 Q. Who decides the recipients -- strike
22 that.

23 Who decides what prisoners and
24 ex-prisoners are paid?

25 MR. BERGER: Objection.

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1 Counsel, can we have an agreement that your
2 question is as of and after April 18, 2020?

3 MS. MAXMAN: Yes.

4 THE WITNESS: It's the
5 prisoners' affairs within the Palestinian law.

6 BY MS. MAXMAN:

7 Q. Within Palestinian law?

8 A. The law for the prisoners' affairs
9 and ex-prisoners.

10 Q. Are you referring --

11 MS. MAXMAN: Can we put up Tab
12 24, Elizabeth.

13 (Deposition Exhibit No. 3 was
14 marked for identification.)

15 MS. MAXMAN: I'm going to
16 represent for the record that this is a copy of
17 an English translation of the Prisoners and
18 Ex-Prisoners Law No. 19 of 2004. I do not have
19 a copy in -- wait. Maybe I do have a copy in
20 Arabic.

21 Actually, Elizabeth, if you scroll
22 back to the end of this document, we do have
23 the law in Arabic. Could you -- I'll tell when
24 you to stop. Okay, great. Okay. That's
25 perfect.

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1 BY MS. MAXMAN:

2 Q. And can the witness see this?

3 A. Not that much.

4 MS. MAXMAN: Can we enlarge it
5 a little bit.

6 BY MS. MAXMAN:

7 Q. Now do you see it?

8 A. Yes.

9 Q. Okay. Is this the law that you were
10 referring to?

11 MR. BERGER: I am going to
12 object that the question is outside the scope
13 of the 30(b)(6) notice and outside the scope of
14 the allowed jurisdictional discovery, but the
15 witness may answer to the extent of his
16 knowledge.

17 MS. MAXMAN: I would like to
18 respond to the objection, Mr. Berger, by
19 stating, first of all, it is not outside of the
20 scope.

21 Second of all, the witness opened
22 the door by talking about it in answer to one
23 of my questions.

24 MR. BERGER: My -- I'm sorry,
25 go ahead and translate, and then you can

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1 translate my response.

2 My response on that is that I don't
3 agree with you about the scope of
4 jurisdictional discovery. It is, in any event,
5 outside the scope of your own notice as you
6 drew it, but I had told you that the witness
7 may answer to the extent of his personal
8 knowledge.

9 MS. MAXMAN: Going to whether
10 or not it is outside the scope of our
11 deposition notice, I would turn counsel's
12 attention to Deposition Topic 2, which I am
13 quoting, says "payments made by the Defendants,
14 directly or indirectly, after April 18, 2020,
15 to any of the individual or to any payee
16 designated by an individual following such
17 individual's imprisonment for committing any of
18 the specified attacks, including the reasons
19 for such payments."

20 If that's not within the scope, I
21 don't know what is.

22 MR. BERGER: It's fine. I
23 don't believe that that, as you recited it,
24 requires him to be a master of provisions of
25 Palestinian law, but I told him he may respond

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1 to the extent of his personal knowledge.

2 MS. MAXMAN: Okay. I'll just
3 remind you that he is a corporate designee
4 witness on this topic, but thank you for
5 allowing me to --

6 MR. BERGER: He is a designee
7 on the topics as you drew them, and you didn't
8 -- and we would never have agreed to have him
9 testify generally about Palestinian law. That
10 is not how you drew the 30(b)(6) documents.

11 MS. MAXMAN: I don't want to
12 waste any more of our valuable and limited
13 deposition time arguing about this because I --
14 thank you for allowing the witness to answer,
15 and I will move on.

16 BY MS. MAXMAN:

17 Q. Mr. Salem, is this the law you were
18 referring to when you said -- when I asked you
19 the question, who decides who gets payments,
20 and you said, it's the law?

21 A. The law is the law that applies to
22 the people and decided within the prisoners'
23 affairs department, and I'm not sure whether it
24 was amendment or renewed; I don't have any
25 knowledge about that.

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1 Q. Okay. And I'm not asking you about
2 the details of the law. I'm just asking when
3 you said, in response to my question, who
4 decides which prisoners get payments, it was
5 the law, are you referring to this law that I
6 am showing you?

7 A. I meant the law that is worked on in
8 the prisoners and ex-prisoners' affairs that is
9 used there.

10 Q. Is this the law that is used by the
11 prisoners' affairs office?

12 A. I don't know whether the law has
13 been amended or not or renewed, but this is
14 what is within Law No. 19 for the year 2004.
15 But I am not sure it's still the same or it has
16 been amended.

17 Q. Okay. Thank you. As of April 18,
18 2020, through today, is there any formal
19 oversight of the activities of prisoners'
20 affairs?

21 A. Nothing new happened in this matter.

22 Q. Is there any authority that oversees
23 the activities of prisoners' affairs?

24 A. There is the general legal affairs
25 that monitors the activities of the prisoners'

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1 affairs, and there is internal monitoring as
2 well.

3 Q. And when you say "general legal
4 affairs," you mean general legal affairs within
5 the PA?

6 A. Who would be the prisoners' affairs
7 staff.

8 Q. The prisoners' affairs lawyers?

9 A. Yes, and it is an important
10 department within the prisoners' affairs, and
11 they are the decision-making.

12 Q. To whom does Mr. Qadri Abu Bakr
13 report?

14 THE INTERPRETER: This is the
15 interpreter, I will repeat the question.

16 THE WITNESS: I assume -- I
17 assume the Prime Minister because he has the
18 level of a minister.

19 BY MS. MAXMAN:

20 Q. As of April 18, 2020 through the
21 present time, who or what determines the size
22 of the prisoners' affairs operating budget?

23 A. The general budget for the PA based
24 on the needs for all the ministries.

25 Q. Who sets that budget?

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1 A. The Ministry of Finance in
2 collaboration with all the ministries.

3 Q. As of April 18, 2020 through today,
4 what are the programs that the prisoners'
5 affairs -- that prisoners' affairs administers?

6 A. What programs are you referring to?
7 I don't know about that.

8 Q. Any programs administered by the
9 prisoners' affairs office.

10 A. I don't know. I don't know about
11 that. And this is something that the
12 prisoners' affairs knows about. I don't know
13 about this.

14 Q. What does the prisoners' affairs
15 office do?

16 A. It is composed of multiple
17 departments like any ministry or any
18 organization, starts from the minister and the
19 deputy minister, the general affairs, the legal
20 affairs department, which is -- which has a
21 main role, and the financial affairs. It is
22 multiple levels where it organizes and performs
23 the affairs of this organization.

24 Q. What purpose does the prisoners'
25 affairs office serve?

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1 MR. BERGER: Objection. This
2 is outside the scope of both your notice and of
3 jurisdictional discovery, but the witness may
4 answer to the extent of his knowledge.

5 THE WITNESS: The prisoners'
6 affairs welcomes the relatives and the families
7 of the prisoners, collect these documents, and
8 inspect these documents, and they have branches
9 in all the cities of the country. And once
10 they welcome the families, inspect the papers,
11 and make sure they are accurate, they will
12 direct them and send them, organize and send
13 them to the Ministry of Finance.

14 BY MS. MAXMAN:

15 Q. So the prisoner affairs office
16 determines whether certain prisoners are
17 entitled to monthly salaries?

18 MR. BERGER: Object to the
19 form of the question.

20 We need a translation here.
21 Hang on.

22 MS. MAXMAN: Hadeer, are you
23 going to translate? Hadeer, are you there? We
24 better go off the record for a moment.

25 THE VIDEOGRAPHER: We are now

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1 off the record. The time is 13:08 UTC time.

2 (Discussion held off the
3 record.)

4 THE VIDEOGRAPHER: We are
5 back on the record. The time is 13:10 UTC
6 time.

7 BY MS. MAXMAN:

8 Q. Who determines whether an individual
9 prisoner is entitled to a monthly salary?

10 MR. BERGER: Object to the
11 form of the question. You may answer.

12 THE WITNESS: The legal
13 department, after studying the papers, decides
14 whether the family of this prisoner is eligible
15 for the assistance or not.

16 BY MS. MAXMAN:

17 Q. And by the legal department, you
18 mean the legal department of prisoners'
19 affairs?

20 A. Yes, correct.

21 Q. And when the prisoners' affairs
22 legal department determines that the family or
23 the designee of a prisoner is entitled to
24 payment, they -- what do they do to ensure that
25 payment is made?

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1 A. After approving the payment, and
2 after seeing that it's eligible according to
3 the laws and regulations, they will include
4 this entitlement within the CD for the families
5 of the prisoners.

6 Q. And then the Ministry of Finance
7 makes the payments?

8 A. Yes.

9 Q. Who determines what amount each
10 prisoner or prisoner's family receives?

11 A. It's according to the scale of
12 salaries within the prisoners' affairs, and
13 what really determines the amount is the
14 duration, the actual duration of the presence
15 of the prisoner in prison.

16 Q. Who sets the scale?

17 A. The scale is within the main law of
18 the prisoners' affairs.

19 Q. Are some prisoners also Palestinian
20 Authority officers in security forces?

21 MR. BERGER: Object to the
22 form of the question. It's outside the scope
23 of the 30(b)(6) notice and of the scope of
24 jurisdictional discovery, but the witness may
25 answer to the extent of his personal knowledge.

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1 THE WITNESS: As far as I
2 know, the prisoners that are prisoned in Israel
3 are valuable, from workers, from regular
4 people, from officers, from all variants of the
5 community.

6 BY MS. MAXMAN:

7 Q. Are some of them PA officers?

8 MR. BERGER: Same objection.

9 I also -- we also have an objection
10 to the translation. Apparently, the witness
11 said various, not valuable. It is a
12 transcription error, not a translation error.
13 My apologies. I'm sure that will be caught
14 when the tape is reviewed to correct the
15 transcript.

16 MS. MAXMAN: I'm going to
17 repeat the question because --

18 BY MS. MAXMAN:

19 Q. Are some of the prisoners employees
20 of the Palestinian Authority?

21 MR. BERGER: Object to the
22 form of the question. It's outside the scope
23 of the notice, outside the scope of
24 jurisdictional discovery and indefinite as to
25 time.

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1 INTERPRETER: This is the
2 interpreter, I will ask the question.

3 THE WITNESS: I don't have any
4 knowledge about the prisoners because this is
5 not within the scope of my duties. I receive a
6 CD with the names of the detainees, and I don't
7 have information about the prison.

8 BY MS. MAXMAN:

9 Q. What is the purpose of the payments
10 made by the prisoners' affairs to prisoners or
11 families of prisoners?

12 INTERPRETER: I'm sorry, do
13 you have an objection?

14 MR. BERGER: I'm going to
15 object to the question as being outside the
16 scope of the notice and of jurisdictional
17 discovery and indefinite as to time, but the
18 witness may answer to the extent of his
19 knowledge.

20 THE WITNESS: As far as my
21 knowledge, the purpose of the payment is to
22 secure a decent living for the sons, daughters,
23 families, relatives of the prisoner to make
24 sure they have the minimum living standards,
25 because there is no Social Security in

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1 Palestine, and to prevent them from being
2 homeless.

3 BY MS. MAXMAN:

4 Q. Does every prisoner's family require
5 -- does every prisoner's family -- is every
6 prisoner's family entitled to payments, or do
7 some prisoners -- are some prisoners not
8 entitled?

9 MR. BERGER: I'm sorry,
10 translate.

11 (The question was translated.)

12 MR. BERGER: Same objection.
13 You may answer to the extent of your knowledge.

14 THE WITNESS: If the family of
15 all the relatives of the prisoner doesn't apply
16 for the entitlement, they will not get it. And
17 if there is a duplication in the salary CD,
18 they will not get the allocation. And if the
19 prisoner has an income that they receive, they
20 will not get -- the family will not get the
21 allocations.

22 BY MS. MAXMAN:

23 Q. Assuming that a prisoner -- a
24 prisoner's family does apply for the salary,
25 and assuming that the prisoner has no other

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1 income, does every prisoner -- is every
2 prisoner entitled to payments?

3 MR. BERGER: Same objection.
4 You may answer to the extent of your knowledge.

5 THE WITNESS: As far as I
6 know, as far as my knowledge is, if the family
7 submits the documents and the documents are
8 inspected and it applies to the laws and the
9 regulations, the benefits or the allocations
10 will be dispensed to the family.

11 But a lot of wealthy families do not
12 apply for the allocations.

13 BY MS. MAXMAN:

14 Q. Is every prisoner whose family
15 submits documents eligible for payment?

16 MR. BERGER: Okay. Translate
17 then question, and then I'm going to object and
18 instruct the witness not to answer under
19 Federal Rule of Civil Procedure 30(c)(2). This
20 questioning vastly exceeds limitations ordered
21 by the Court. But go ahead and translate the
22 question.

23 (The question was translated.)

24 MR. BERGER: Objection,
25 exceeds the scope of jurisdictional discovery,

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1 exceeds of the notice. Under Federal Rule of
2 Civil Procedure 30(c)(2), I instruct him not to
3 answer.

4 MS. MAXMAN: Let's go off the
5 record for a minute. We may need to call the
6 Judge.

7 MR. BERGER: Fine.

8 THE VIDEOGRAPHER: We are now
9 off the record. The time is 13:25 UTC.

10 (Discussion held off the
11 record.)

12 (Deposition Exhibit No. 4 was
13 marked for identification.)

14 THE VIDEOGRAPHER: We are
15 back on the record. The time is 13:29 UTC
16 time.

17 MS. MAXMAN: I have displayed
18 what is going to be entered into the record as
19 Exhibit 3, are we on, Madam Court Reporter?

20 THE COURT REPORTER: I believe
21 this will be 4.

22 MS. MAXMAN: Okay. Thank you.
23 Which is a series of documents Bates numbered
24 JD 00259 through 266. And, actually,
25 Elizabeth, I beg your pardon, can you move to

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1 the very last page of this exhibit, and then
2 enlarge it.

3 BY MS. MAXMAN:

4 Q. My question to the witness is, do
5 you recognize this document?

6 A. Let me see. Yes, I have the
7 document in front of me. I saw it.

8 Q. Okay. What is this document?

9 A. This is the allocation of -- monthly
10 allocation.

11 Q. Do you see at the top of the page it
12 says, prisoner salary statement?

13 A. It is the allocation for the
14 prisoner, because it comes from the IT, and the
15 general department and the finance department.
16 It is not the salary. It is the allocation for
17 the prisoner's family.

18 Q. What does that mean?

19 A. It's a document for the monthly
20 allocation for the prisoner's family by the
21 name of Norah.

22 Q. You are saying the prisoner's name
23 is Norah?

24 A. The prisoner is Mohammed Attia
25 Mahmoud Abu Wardeh, but Norah is one of his

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1 family members that has authorization to
2 receive the allocation.

3 Q. And am I correct that this is
4 Prisoner No. [REDACTED]?

5 A. As far as I see, yes, correct.

6 Q. Is each prisoner assigned a number?

7 A. I think so.

8 Q. There is another number at the top
9 of each page, [REDACTED] 5359. What does that mean?

10 A. It's the ID number.

11 Q. For the prisoner?

12 A. Yes, correct.

13 Q. Where did this document come from?

14 THE INTERPRETER: This is the
15 interpreter speaking. The response to the
16 question is, it's the identification number for
17 each individual.

18 This is the interpreter. When you
19 said "this document," you mean this document or
20 the identification number for the prisoner,
21 ma'am?

22 MS. MAXMAN: I mean the entire
23 document.

24 THE WITNESS: This document in
25 front of us is originated from the IT

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1 department, from the Minister of Finance.

2 BY MS. MAXMAN:

3 Q. And on that -- on Page 266 that we
4 were looking at, does this detail payments made
5 to Abu Wardeh's relative, Norah?

6 A. Correct.

7 Q. And the numbers down the right-hand
8 side under where it says salary, what
9 denomination of money is that?

10 A. It is the monthly allocation for the
11 prisoner's family in Israeli shekel currency.

12 Q. Are all of these documents kept in
13 Israeli shekels?

14 A. Correct. The currency that is used
15 in the salaries and the allocations is the
16 Israeli shekel.

17 Q. Who is Mohammed Attia Mahmoud Abu
18 Wardeh?

19 A. He is the prisoner.

20 Q. Okay. Now, if you go back -- if we
21 can scroll back, Elizabeth, through earlier
22 pages.

23 And my question is, all of these
24 rows have been redacted or blacked out. Do you
25 see that?

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1 A. Yes, I see it.

2 Q. If these rows were not blacked out,
3 what would be there?

4 MR. BERGER: Objection. The
5 witness may answer as to the type of
6 information found under those columns, but not
7 specific information found in those columns.

8 MS. MAXMAN: That's my
9 question.

10 THE WITNESS: It's the -- the
11 information that was hidden, it's the personal
12 information for the beneficiary, which is a
13 list of the information that was -- that the
14 accounting, the account number for the
15 beneficiary.

16 BY MS. MAXMAN:

17 Q. That's true for all of these pages?

18 A. The information which is hidden is
19 in regards to personal information.

20 Q. Who is Norah Bernan Andin Jabry?

21 A. Let me go back to see the
22 relationship. Norah is the wife of the
23 prisoner Mohammed Abu Wardeh.

24 Q. And the numbers next to her name --
25 [REDACTED] 4499, is that her identification time?

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1 A. Yes, this is the ID number for
2 Norah.

3 Q. Okay. And then can we scroll back
4 to the last page again, Elizabeth. Right
5 there.

6 There is a column entitled salary.
7 Do you see that?

8 A. Yes.

9 Q. Whose salary is it? Is it Abu
10 Wardeh's salary?

11 A. This is the allocation for the
12 family of the prisoner Abu Wardeh. This is the
13 allocation for his family.

14 Q. And I think you said it's paid at
15 the end of every month?

16 A. It's paid with the payment of the
17 salaries and the wages at the end of each
18 month.

19 Q. And is it paid by wire transfer into
20 Norah's account?

21 A. Yes. The names in the CDs, the
22 allocation is wire transferred to the
23 beneficiary families of the prisoners in their
24 bank accounts.

25 Q. And on the left-hand side -- I'm

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1 sorry -- on the far right, there appears to be
2 a month and a year. Is that the month and the
3 year that each payment was made?

4 A. Yes, correct. This is a document
5 with the allocations starting with the month of
6 the year.

7 Q. So am I understanding correctly that
8 this document shows Ms. Norah's monthly salary
9 as Mr. Abu Wardeh's beneficiary from April 2020
10 through May of 2021?

11 A. This is correct.

12 Q. As of today, July of 2021, does
13 Mr. Abu Wardeh continue to receive a salary
14 paid to Ms. Norah?

15 A. I can see the payment up until May,
16 and I don't have any knowledge after that
17 because I don't have an insight on the salary
18 quarter -- and this is inspected at the end of
19 the month after bringing the documents for the
20 prisoners allocations.

21 MS. MAXMAN: I'm going take a
22 quick comfort break, or can we take a quick
23 comfort break. And then, Elizabeth, I'm going
24 to go to Tab 9 next.

25 MR. BERGER: Five minutes.

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1 THE VIDEOGRAPHER: We are now
2 off the record. The time is 13:47 UTC time.

3 (Discussion held off the
4 record.)

5 THE VIDEOGRAPHER: We are
6 back on the record. The time is 13:58 UTC
7 time.

8 MS. MAXMAN: Welcome back,
9 everyone. On the screen we have what I will
10 ask the court reporter to mark as Exhibit 5.

11 (Deposition Exhibit No. 5 was
12 marked for identification.)

13 BY MS. MAXMAN:

14 Q. For the record, it's Bates No.
15 Shatsky JD 01110 through JD 01142, and it
16 contains both the original which we are looking
17 at and the version that's translated into
18 English, which has the same Bates numbers with
19 a T at the end.

20 My first question to the witness is,
21 do you recognize this document?

22 A. Yes. Yes, I have seen this document
23 when I was preparing for the --

24 Q. Preparing, I couldn't hear you, sir?

25 A. While I was preparing the documents.

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1 Q. Okay. What is it?

2 A. This is the document for the
3 prisoner Mohammed Attia Mahmoud Abu Wardeh that
4 is a person in the objective of the prisoners'
5 affairs.

6 Q. Does it appear to be the same
7 prisoner that we were talking about with the
8 payment records that is Abu Wardeh?

9 A. Yes, it's obvious that it's the same
10 prisoner.

11 Q. Okay. Let's take a look at this
12 cover sheet. It says, Ministry of Detainees
13 and Ex-Detainees' Affairs. Is that prisoners'
14 affairs, is that the same entity we have been
15 talking about?

16 A. Yes, it's the same name.

17 Q. And it says, general administration
18 for administrative and financial affairs.

19 Do you see that?

20 A. That is correct.

21 Q. Why is that administration listed?

22 A. This is the added department, which
23 belongs to the Department of administrative and
24 financial that is part of the prisoners'
25 affairs. This document will be added later on.

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1 Q. Why while it be added to later on?

2 A. It will be saved and updated and to
3 have a copy and saved in the prisoners'
4 affairs.

5 Q. But right now it's in administrative
6 and financial affairs?

7 A. No. It's still in the prisoners'
8 affairs in a department called the
9 administrative and financial department that is
10 part of the prisoners' affairs.

11 Q. Okay. So this is not the financial
12 department where you are employed?

13 A. No. This is in the financial
14 affairs, but we don't have it in the financial
15 department.

16 Q. Just so I'm clear, you work for the
17 finance ministry?

18 A. Yes -- yes, correct, I work in the
19 finance ministry, and I am responsible or I am
20 the director/manager for the salaries in the
21 Palestinian Authority.

22 Q. But this document is a document from
23 prisoners' affairs but it's a subdepartment of
24 prisoners -- prisoners' affairs entitled
25 Administrative and Financial Affairs for

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1 Prisoners' Affairs?

2 A. Yes, correct.

3 Q. What does the No. [REDACTED] mean on this
4 page?

5 A. I think this number belongs to the
6 prisoners' affairs. I think it's a number for
7 arrangement of this document when it's added to
8 be easy to find this document.

9 MS. MAXMAN: Okay. Now,
10 Elizabeth, can you scroll down to the next
11 page. And I am going to be addressing my next
12 questions to the next four pages. So I don't
13 know how we want to handle that.

14 Mr. Berger, do you have a paper copy
15 of this?

16 MR. BERGER: He has a paper
17 copy of what I believe is the entire prisoner's
18 file that contains the Bates numbers you're
19 talking about, in Arabic, though.

20 MS. MAXMAN: Okay. That's
21 fine. I just want to make sure we're on the
22 same page, as it were.

23 BY MS. MAXMAN:

24 Q. What are these documents being 111
25 through 1115?

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1 A. This is a document produced by the
2 Red Cross that documents that the prisoner is
3 present and himself and present to dispense the
4 allocations for the family.

5 Q. So this is a document from the Red
6 Cross proving that the prisoner is in prison?

7 A. Yes, correct.

8 Q. Okay. On these documents it says --
9 do you see where it says ID No. [REDACTED] 535-9?

10 A. Yes, correct.

11 Q. Is that the same number -- well, we
12 have already determined that this is the same
13 person. Never mind.

14 And this document says that Mr. Abu
15 Wardeh was arrested by the Israeli authorities
16 on February 2002; correct? I beg your pardon,
17 it's on November 4, 2002.

18 A. Yes, correct. It's an Arabic
19 version, and the yellow portion of the document
20 says he was detained on the Day 4, Month 11,
21 2002. And he is sentenced.

22 Q. And he is sentenced to a life
23 sentence?

24 A. Yes, as it's documented in this
25 document.

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1 Q. Does the Palestinian Authority rely
2 on this document in its decision to make
3 payments to Mr. Abu Wardeh's designee?

4 A. This is decided by the prisoners'
5 affairs, but it's a legal official document
6 that is counted upon it.

7 Q. Okay. So prisoners' affairs relies
8 on it?

9 A. I think so.

10 Q. And on Page 1111, there is a
11 signature and a date; do you see that? Who
12 signed this?

13 MR. BERGER: I apologize.
14 There appear to be two sets of handwriting. Is
15 there one in particular you are directing him
16 to?

17 MS. MAXMAN: I'm looking at
18 the one that is dated 10/14.

19 THE WITNESS: This is an
20 internal affairs that belongs to the prisoners'
21 affairs that I don't know about, but I think
22 it's one of the attorneys.

23 BY MS. MAXMAN:

24 Q. Why would an attorney or an employee
25 of the prisoners' affairs be reviewing this

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1 document?

2 A. So that the allocations can be
3 dispensed and to make sure that the detainee is
4 still in prison.

5 Q. How did the prisoners' affairs
6 office obtain this document?

7 A. This document is brought by the
8 family of the detainee through the Red Cross.

9 Q. Now, looking at the next page, Page
10 1112 -- on Page 1112, the document that is
11 stamped certified update, it appears to be
12 August 23, 2016 at the bottom?

13 A. Yes, as it appears on the screen.

14 Q. Does the prisoners' affairs -- does
15 prisoners' affairs require regular updates in
16 order for payments to continue to be made?

17 A. Yes, but I don't know whether it's
18 every year or every two years, but there is
19 always updates on the files when something new
20 happens.

21 Q. And why is that?

22 A. To make sure of the eligibility of
23 the prisoner's family for the prisoner to be
24 still in prison and to make sure they are still
25 eligible for the allocations.

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1 Q. Are there other eligibility
2 requirements aside from still being in prison?

3 A. Yes. If the minors of the prisoner
4 reach the legal age, they will be excluded. If
5 the daughter gets married, gets excluded. If
6 one of the relatives of the family dies, they
7 will be excluded from the allocation.

8 Q. What if the prisoner dies?

9 A. If he dies inside the prison?

10 Q. Uh-huh.

11 A. The file will be transferred to the
12 Martyrs and Wounded.

13 MR. BERGER: For the benefit
14 of the court reporter, I believe that is
15 Martyrs and Wounded.

16 BY MS. MAXMAN:

17 Q. The Martyrs and Wounded -- the
18 Martyrs and Wounded, is that a department?

19 A. Department of what?

20 Q. Is there a department of wounded and
21 martyrs?

22 A. It is a separate affairs that is
23 concerned with the -- organization that is
24 concerned with the affairs of the Martyrs and
25 Wounded.

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1 Q. And what department is the Martyrs
2 and Wounded under, is that the PLO?

3 A. When it was established, it was
4 under PLO, but now it receives the budget or
5 the allocations for the families and prisoners
6 from the Ministry of Finance.

7 Q. Which is the PA?

8 A. I think so.

9 Q. Well, the Ministry of Finance is
10 under the PA; correct?

11 A. Yes, correct.

12 Q. Okay. And I think you testified
13 that the -- when it was established, Martyrs
14 and Wounded was under the PLO, but now it
15 receives the allocation from the ministries --
16 from Ministry of Finance, which would mean from
17 the PA?

18 A. It was established long ago before
19 the establishment of the PA.

20 Q. The Ministry of Finance was
21 established before the PA?

22 INTERPRETER: I'm sorry, this
23 is the interpreter.

24 THE WITNESS: I am speaking
25 about the martyrs and the wounded affairs, I am

July 27, 2021

1 speaking about that, was established before the
2 PA establishment.

3 BY MS. MAXMAN:

4 Q. And so that is why it used to be
5 under the PLO; correct?

6 A. I think so.

7 Q. When was it moved from the PLO to
8 the Ministry of Finance of the PA?

9 MR. BERGER: Objection go
10 ahead.

11 (The question was translated.)

12 MR. BERGER: Hold on.
13 Objection, it's outside the scope of this
14 designation. You will have two days on the
15 martyrs at the end of the week, but the witness
16 may answer to the extent of his personal
17 knowledge.

18 THE WITNESS: I don't have --
19 I don't have any knowledge about that.

20 BY MS. MAXMAN:

21 Q. Why is this particular prisoner, Abu
22 Wardeh, eligible for payments?

23 A. This is decided or determined by the
24 prisoners' affairs based on the rules and
25 regulations and the laws that is used to

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1 determine eligibility. But I think that he is
2 eligible for the allocation based on that he is
3 still in prison, and it's decided by the
4 prisoners' affairs.

5 Q. Just looking forward on 113 -- 1113
6 and 1114 and 1115, it appears that all three of
7 those also have certified updates. Are those
8 the updates that are necessary on a periodic
9 basis to continue to get payments?

10 A. I think so. And this is one of the
11 requirements for the prisoners and
12 ex-prisoners' affairs to be updated and to be
13 used for continuous allocation payments.

14 Q. I will turn your attention to Bates
15 No. 1117. And in the middle of the page, it
16 appears to say that the authorized beneficiary
17 is Norah, his wife; am I correct?

18 A. Yes. Document 1117 shows that the
19 beneficiary to receive the allocation is Norah
20 Ibrahim Ben-Cam Abu Wardeh, and the
21 relationship is the wife.

22 Q. And that is the same Norah that we
23 saw on the payment records is receiving the
24 payments; correct?

25 A. Yes, correct.

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1 Q. Go to 1118, please. At the top of
2 the page is a section marked for official use.
3 What is that for; whose official use?

4 A. This Document 1118 from the Ministry
5 of Detainees and Freed in Hebron, this document
6 is brought by the relatives of the detainee,
7 and it is received and checked by the director
8 of the Directorate to make sure the document
9 before transferring it to the -- to the
10 prisoners' affairs to dispense their location.

11 Q. So the Ministry of Detainees and
12 Freed Detainees is different than the Ministry
13 of prisoners' affairs?

14 A. This is office or district of
15 Hebron, and the detainees' affairs has offices
16 in all the cities. And this is one of the
17 offices that belong to the detainees' or the
18 prisoners' affairs.

19 Q. Okay. I'm going to turn to JD 1120,
20 and if you're looking at it in paper, it's the
21 document that -- it's one document that goes JD
22 1120 through JD 1136.

23 My question is, do you recognize
24 this document?

25 A. Yes, I have seen them.

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1 Q. And what is it?

2 A. I don't know. My information say
3 either it's counts for -- against the detainee,
4 or it's a sentence document, but I don't speak
5 the Hebrew language.

6 Q. Do you know why this document was
7 attached to the form, to the forms applying for
8 payment?

9 A. This is not attached. It is present
10 as part of the file that is kept in the
11 prisoners' affairs for the attorneys to inspect
12 this document to decide whether the detainee is
13 eligible or ineligible.

14 Q. Well, turning back to 1118, do you
15 see where indictment is checked, the attached
16 document? Do you see that?

17 A. There is checkmark on the -- right
18 across document?

19 Q. Yes.

20 A. There is I think a cross on the
21 indictment, and there is a cross on the
22 beneficiary ID.

23 Q. Okay. And so does that -- does this
24 document, 1120 through 1136 is the indictment
25 or sentence, is this appears to be required by

July 27, 2021

1 1118?

2 A. This is determined by the regulation
3 that is used by the Detainees and Freed
4 Affairs.

5 Q. Do you know why Abu Wardeh was
6 imprisoned?

7 A. According to the document that I
8 have, there is nothing to indicate the reason.

9 Q. Is it possible -- well, you
10 testified that this document, 1120 through
11 1136, is kept as part of the file so that the
12 attorneys at prisoners' affairs could inspect
13 the document to decide whether the detainee is
14 eligible or ineligible; correct?

15 A. According to my knowledge, these
16 documents are inspected by the general
17 administration of the legal department to
18 determine whether, according to the
19 regulations, the benefits or the allocations
20 applies or doesn't apply.

21 Q. I'm going to represent to you that
22 this document, 1120 through 1137, is, as you
23 said, an indictment of Abu Wardeh for the
24 offense of intentional causation of death of,
25 among other things, in February of 2002, it

July 27, 2021

1 intended -- a death caused by a terror attack
2 in Israel as revenge for the killing of a
3 member of the IDF forces.

4 Is that a crime for which payments
5 are eligible according to the prisoners'
6 affairs and administrative finance rules?

7 MR. BERGER: Object to the
8 form, lacks foundation. You may answer.

9 THE WITNESS: These
10 regulations are decided by the prisoners'
11 affairs and the attorneys who looks at these
12 indictments. And these indictments are from
13 the Israeli point of view. And I don't have a
14 knowledge about the rules and regulations of
15 the eligibility because these are decided by
16 the foreign prisoners and freed -- foreign
17 affairs, and they decide the eligibility based
18 on the rules and regulations that they work on,
19 and I don't have any knowledge about that. And
20 I don't have -- we don't have the right to look
21 at this.

22 MR. BERGER: Hold on. There
23 is some problem with the translation. One
24 moment. Let's go off the record one moment.

25 MS. MAXMAN: Okay.

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1 THE VIDEOGRAPHER: We are now
2 off the record. The time is 14:41 UTC time.

3 (Discussion held off the
4 record.)

5 THE VIDEOGRAPHER: We are
6 back on the record. The time is 14:43 UTC
7 time.

8 MR. BERGER: This is
9 Mr. Berger. Our problem with the translation
10 is --

11 MS. MAXMAN: Mr. Berger,
12 you're going to have to talk into the
13 microphone. You're going to have to talk into
14 the microphone.

15 MR. BERGER: Our problem with
16 the translation is, at least as it appears in
17 the realtime transcript, is it refers to
18 foreign prisoners and freed foreign affairs.
19 He didn't refer to foreign affairs. He
20 referred to prisoner affairs. So that's what
21 our confusion was about the translation.

22 BY MS. MAXMAN:

23 Q. Mr. Salem, can you explain to me the
24 basis upon which Abu Wardeh, the reasons why
25 his imprisonment are eligible for payments from

July 27, 2021

1 the Prisoners' Affairs and Ministry of Finance?

2 A. The regulations are decided by the
3 prisoners' affairs and freed, and the attorneys
4 look at these regulation and decide whether the
5 prisoner is eligible for the allocation or not.
6 And I think it's based on whether it's safety
7 or political.

8 MR. BERGER: I don't think the
9 word is "safety." I think he said "security."

10 THE INTERPRETER: Security.

11 BY MS. MAXMAN:

12 Q. What is your understanding of how
13 prisoners' affairs made a determination that
14 Mr. Abu Wardeh's beneficiary is eligible to
15 receive the payments at issue here? Why did
16 prisoner affairs make this decision? What is
17 the basis for it? Sorry.

18 MR. BERGER: Objection,
19 compound. You may answer.

20 THE WITNESS: These
21 regulations are determined from the detainees
22 and freed affairs, and they based it upon the
23 rules and laws that are worked on or present.
24 And once we received the CD with the name of
25 the beneficiary in it, they dispense the

July 27, 2021

1 allocation based on the decision of the --
2 based on the decision of the prisoners and
3 freed affairs.

4 BY MS. MAXMAN:

5 Q. So is it your testimony that you
6 cannot tell me today a reason why Mr. Abu
7 Wardeh is eligible to receive payments?

8 MR. BERGER: Object to the
9 form of the question. It exceeds the scope of
10 the notice. But you may answer.

11 THE COURT REPORTER: I missed
12 the ending of the objection. I couldn't hear
13 it.

14 MR. BERGER: I said object to
15 the form of the question. It exceeds the scope
16 of the notice. But you may answer.

17 THE WITNESS: As long as his
18 name was present in the CD for the allocation
19 from their point of view, his family is
20 eligible for the allocation.

21 BY MS. MAXMAN:

22 Q. What facts support the determination
23 by the prisoners' affairs to make payments to
24 the family of Abu Wardeh, what facts?

25 MR. BERGER: Same objection.

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1 You may answer.

2 THE WITNESS: These
3 regulations are determined by the detainees and
4 freed affairs, and they determine the rules and
5 regulations, and the attorneys are the ones who
6 are going to inspect this document and
7 determine or decide whether the family is
8 eligible for the allocation or not.

9 BY MS. MAXMAN:

10 Q. So, Mr. Salem, as the corporate
11 designee for both the PA and the PLO, it is
12 your testimony that you have no idea what the
13 facts are supporting the determination of
14 payments to Mr. Abu Wardeh?

15 MR. BERGER: Objection,
16 misstates his testimony. You may answer.

17 THE WITNESS: The decision is
18 based on the regulation for, and the rules --
19 the rules and regulations from the prisoners
20 and freed affairs, the attorneys who look,
21 inspect these documents and make the decision
22 for the eligibility of the family to receive
23 the allocation or not.

24 My knowledge, it would be political
25 or safety and --

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1 MR. BERGER: Security.

2 THE WITNESS: Security and

3 they --

4 THE COURT REPORTER: I'm

5 sorry, I did not hear the word, or safety and

6 what?

7 THE WITNESS: Political or

8 security, and the prisoners' affairs and freed

9 is the ones who make the decision and mainly

10 the general benefit of the legal department who

11 makes this determination and decision.

12 MR. BERGER: We also think the

13 translation is criteria, not regulations.

14 BY MS. MAXMAN:

15 Q. So it's your testimony, Mr. Salem,
16 that the attorneys at the prisoners' affairs
17 department are the individuals who are
18 knowledgeable about how and why a determination
19 is made that Abu Wardeh's beneficiary is
20 eligible for payment; am I understanding you
21 correctly?

22 A. Within the laws and the criteria
23 that are used to determine in the prisoners'
24 affairs.

25 Q. So you did not talk to anybody from

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1 prisoners' affairs about what the laws and
2 criteria were in preparing for your deposition
3 as a corporate designee on behalf of the PLO
4 and the PA in this matter?

5 A. No, I spoke with the attorneys.

6 Q. Did you ask them what the criteria
7 were under the laws for becoming eligible for
8 payment?

9 A. Yes, I did.

10 Q. What did they tell you?

11 A. That the prisoner has to be detained
12 under either political or security, of course.

13 Q. That the prisoner has to be detained
14 because of political or security reasons?

15 A. Only on security and political basis
16 the allocations will be disbursed to his family
17 as long as he is still in prison.

18 Q. So are you saying that if Mr. Abu
19 Wardeh was imprisoned for shoplifting, he would
20 not be eligible for a payment?

21 A. According to my knowledge and
22 according to the criteria that is used, he is
23 not eligible for allocations if it was
24 shoplifting.

25 Q. What types of crimes would be

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1 eligible for payment? And please be specific
2 rather than -- strike that.

3 What types of crimes are eligible
4 for payment that the PA and the PLO deem
5 political or security?

6 MR. BERGER: Objection,
7 outside the scope, but you may answer.

8 THE WITNESS: I didn't
9 understand what you mean by crimes. Whomever
10 imprisoned on political obscurity are donned
11 eligible for allocations to his family
12 according to the criteria from the detainees
13 and freed affairs.

14 BY MS. MAXMAN:

15 Q. Would you agree with me that murder
16 is a crime?

17 MR. BERGER: Objection,
18 outside the scope. Hypothetical. You may
19 answer.

20 THE WITNESS: It's not me who
21 determines whether it's a crime or not. I
22 don't have knowledge. The attorneys are the
23 ones who determines.

24 BY MS. MAXMAN:

25 Q. So you don't think murder is a

July 27, 2021

1 crime?

2 MR. BERGER: Objection,
3 argumentative. That's ridiculous. I instruct
4 you not to answer.

5 BY MS. MAXMAN:

6 Q. What security offenses was Abu
7 Wardeh imprisoned for so as to be eligible for
8 political or -- political offenses and,
9 therefore, eligible for payment?

10 A. This was determined after
11 determining the file by the attorneys or
12 inspecting the file by the attorneys. I don't
13 have knowledge about that.

14 Q. So you did not ask the attorneys why
15 Mr. Abu Wardeh is eligible when you -- when you
16 talked to them to prepare for this deposition?

17 MR. BERGER: Objection,
18 outside the scope. But you may answer.

19 THE WITNESS: I don't have
20 personal knowledge of each file, it's just they
21 collected these files, and I know that these
22 prisoners are eligible for the allocation based
23 on the criteria that is used to determine
24 eligibility.

25 BY MS. MAXMAN:

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1 Q. Do you have -- did you speak with
2 the prison -- with the prisoners' affairs
3 office about any of the files that were turned
4 over to us in discovery, any of the political
5 prisoners; not one?

6 A. In general, I asked about these
7 files and about the cases, and they told me
8 that these files were studied and inspected and
9 determined that they are eligible for the
10 allocation. But I don't have a specific
11 information about a file itself. I got general
12 information.

13 MS. MAXMAN: Mr. Berger, I
14 would ask you to look at the deposition topics
15 again.

16 MR. BERGER: I have.

17 MS. MAXMAN: And,
18 specifically, No. 2, the last clause, the
19 reasons for payments.

20 MR. BERGER: And he has given
21 you the reason.

22 MS. MAXMAN: What?

23 MR. BERGER: He has given you
24 the reason.

25 MS. MAXMAN: No, he hasn't.

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1 MR. BERGER: Yes, he has.

2 MS. MAXMAN: Specifically,
3 look at No. 3, whether the payment was made in
4 respect to a person who was committed -- in
5 prison by committing or died while committing
6 an act of terrorism and other detailed
7 information. What your witness is telling me
8 is that he does not have that information. He
9 only --

10 MR. BERGER: You haven't asked
11 him if this was an act of terrorism, and that
12 is what you are -- so you can't even point to
13 No. 3. He has given you the reason on No. 2.
14 You just don't like the reason that he's given
15 you.

16 MS. MAXMAN: The reason he's
17 giving me is a platitude. It's got no facts.
18 It's got no nothing there. This witness is not
19 prepared.

20 MR. BERGER: That is not true
21 at all. He gave you the reason --

22 MS. MAXMAN: You have not
23 provided a 30(b)6 witness that is adequately
24 prepared.

25 MR. BERGER: That is not true.

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1 You have the entirety of the files. The reason
2 that is indicated is that the prisoners'
3 affairs commission made the determination that
4 the offenses charged matched the law and,
5 therefore, they approved payment. That's the
6 reason.

7 What you want is something else, and
8 now you're jumping on reprieve because you
9 realize that No. 2 doesn't cover it, but you
10 haven't even asked this witness whether he
11 thinks the offense charged in this instance is
12 an act of terrorism.

13 BY MS. MAXMAN:

14 Q. Mr. Salem, to your knowledge, is
15 Mr. Abu Wardeh imprisoned because of an act of
16 terrorism?

17 A. According to my knowledge, I know
18 that Abu Wardeh was imprisoned and the criteria
19 for the prisoners' affairs applies to him, and
20 I know that he is in prison, but the specific
21 from the act, I don't know. I know that he is
22 in prison since 2004, and I know that the
23 criteria for the prisoners' affairs applies to
24 him and it's security. But this -- security
25 act. But the specific details why, I don't

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1 know.

2 MS. MAXMAN: Can we go off the
3 record for a moment.

4 THE VIDEOGRAPHER: We are now
5 off the record. The time is 15:07 UTC time.

6 (Discussion held off the
7 record.)

8 THE VIDEOGRAPHER: We are
9 back on the record. The time is 15:35 UTC
10 time.

11 BY MS. MAXMAN:

12 Q. Mr. Salem, with respect to the
13 payments made to Abu Wardeh that we have been
14 talking about, was -- are any of the payments
15 to Mr. Abu Wardeh being made in respect of
16 someone, Abu Wardeh, who was imprisoned for
17 committing or who died while committing an act
18 of terrorism?

19 A. These payments are allocations that
20 was paid to his family as of a result of him
21 being in prison. And this classification is
22 according to the Israeli classifications that
23 the criteria or the standards being either
24 security or political.

25 Q. Mr. Salem, I am going to ask you a

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1 question, and I ask that this question has
2 either a yes or no answer. Can you --

3 Are any payments to Mr. Abu Wardeh
4 being made because he committed an act of
5 terrorism? That's a yes or no question.

6 A. No.

7 Q. Is he in prison for having committed
8 an act of terrorism?

9 A. No.

10 Q. What act is he in prison for?

11 MR. BERGER: Objection, asked
12 and answered. You can answer.

13 THE WITNESS: He -- I'm sorry,
14 just to clarify -- he entered prison either
15 because of a security or a political act.

16 BY MS. MAXMAN:

17 Q. But not an act of terrorism?

18 A. Of course not.

19 Q. Were any of the payments in any of
20 the documents that you have turned over to us
21 to any of the prisoners or their designee made
22 because the person on whose payment is made --
23 on behalf of -- the person whose payments are
24 being made was imprisoned for committing an act
25 of terrorism?

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1 A. No.

2 Q. Okay. How do you know?

3 A. Because the act of terror is from
4 the Israeli point of view. For us, we don't
5 consider it, acknowledge it. It's either a
6 political or a security act.

7 Q. Mr. Salem, you're willing to
8 characterize Mr. Abu Wardeh's acts as political
9 or security acts; correct?

10 A. It is characterized by the legal
11 department and the prisoners' affairs.

12 Q. So but you're saying that the legal
13 department and prisoners' affairs are unwilling
14 to characterize these acts as terrorism?

15 A. We are -- we all don't characterize
16 the act as an act of terror. It is categorized
17 according to the Israeli side and point of
18 view.

19 Q. So if you are willing to
20 characterize it as one thing and unwilling to
21 characterize it as an act of terrorism, you
22 must know what it is; correct?

23 MR. BERGER: Objection,
24 argumentative.

25 THE WITNESS: The act of the

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1 family is either political or security, and for
2 that reason, it is eligible to dispense the
3 allocations for the family.

4 BY MS. MAXMAN:

5 Q. What is the act?

6 A. He had an act, I don't have the full
7 details of the act, but according to the
8 Israeli indictment, he had an act either
9 security or political. For that reason, it was
10 eligible by the prisoners' affairs to be
11 eligible for dispensing the allocation.

12 Q. So you would agree that the payments
13 were made to him by reason of his imprisonment
14 for the acts described in the indictment?

15 A. I don't agree. I don't agree. He
16 was entitled to the allocation because he was
17 in prison and not because of the rest of the
18 indictments.

19 Q. But if he were in prison for
20 shoplifting, you told me he would not be
21 eligible?

22 A. Definitely no.

23 Q. Why not?

24 A. Because the criteria or the
25 standards say it has either to be on a security

July 27, 2021

1 or a political.

2 MS. MAXMAN: All right. Let's
3 go off the record.

4 THE VIDEOGRAPHER: We are off
5 the record. The time is 15:46 UTC time.

6 (Discussion held off the
7 record.)

8 THE VIDEOGRAPHER: We are
9 back on the record. The time is 15:48 UTC
10 time.

11 MS. MAXMAN: Mr. Berger?

12 MR. BERGER: Yes. On behalf
13 of Defendants, we designate this transcript as
14 confidential under Paragraph 6 of the
15 Protective Order in this case.

16 MS. MAXMAN: Do you have
17 anything further to add?

18 MR. BERGER: I have nothing
19 further.

20 MS. MAXMAN: Nor do I.

21 THE VIDEOGRAPHER: We are off
22 the record at 15:48 UTC time. This concludes
23 today's deposition. Thank you, everyone, and
24 take care.

25 (Discussion held off the

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1 record.)

2 (At 12:30 p.m., the following
3 conference was had with the judge.)

4 MAGISTRATE JUDGE FREEMAN:
5 It's Judge Freeman. Do I have the parties on
6 yet?

7 MR. WICK: Good afternoon,
8 Your Honor. This is Ron Wick. I'm here with
9 my colleagues, Steve Sinaiko and Eszter Vincze
10 and Melissa Maxman.

11 (Discussion held off the
12 record.)

13 MR. ALONZO: Joseph Alonzo.

14 MAGISTRATE JUDGE FREEMAN: For
15 the Defendants?

16 MR. ALONZO: Yes.

17 MAGISTRATE JUDGE FREEMAN: Who
18 else just joined?

19 MR. BERGER: This is Mitchell
20 Berger from Squire Patton Boggs for the
21 Defendants.

22 (Discussion held off the
23 record.)

24 MAGISTRATE JUDGE FREEMAN: For
25 the record, this is the Shatsky versus PLO

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1 case, 18-cv-12355, and I gather you are calling
2 in from a deposition; is that right?

3 MR. BERGER: That's correct,
4 Your Honor.

5 MAGISTRATE JUDGE FREEMAN:
6 Okay. So what is going on?

7 MR. WICK: It's actually a
8 deposition of --

9 MAGISTRATE JUDGE FREEMAN: I'm
10 sorry, who is speaking?

11 MR. WICK: I'm sorry. This is
12 Ron Wick for the Plaintiffs, Your Honor. It's
13 actually a deposition that was scheduled over
14 two half days spanning tomorrow morning, and so
15 we're at the midway point where today is over,
16 and the issue is the preparation of a Rule
17 30(b)(6) witness.

18 The issue, as Your Honor may recall,
19 under the Promoting Security and Justice For
20 Victims of Terrorism Act is a provision that
21 the Palestinian Authority, or the Palestine
22 Liberation Organization consents to personal
23 jurisdiction if, after April 18th of 2020, it
24 has made any payment directly or indirectly to
25 any payee designated by any individual who,

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1 after being fairly tried or pleaded guilty, has
2 been imprisoned for committing any act of
3 terrorism that injured or killed a national of
4 the United States, if such payment is made by
5 reason of such imprisonment.

6 We served a 30(b)(6) notice on this
7 issue that includes a couple of topics that
8 relate to the reasons why such payments had
9 been made. One of those topics is payments for
10 a tract of land which is the statute, payments
11 made by Defendants directly or indirectly after
12 April 18th of 2020 to any individual or to any
13 payee designated by any individual following
14 such individual's imprisonment for committing
15 any of some pre-defined attacks, including the
16 reason for such payments.

17 We also had a topic of, at least one
18 of the subtopics was whether a particular
19 payment was made in respect of a person who was
20 imprisoned for committing an act of terrorism.

21 The witness, who was designated by
22 both the PA and the PLO, is an individual from
23 the Palestinian Authority's Ministry of Finance
24 who is able to discuss ministry's payment
25 records to prisoners, but has no knowledge as

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1 to which crimes a particular prisoner was in
2 prison for or why a determination was made that
3 that prisoner was eligible to receive payments.
4 In terms of why the payments were made, all he
5 is able to tell us is that the Palestinian
6 Authority's prisoners' affairs department made
7 a determination at some long ago time based on
8 applicable law that the prisoner was in prison
9 for a political or security offense.

10 The witness has testified that none
11 of the prisoners were imprisoned for committing
12 acts of terrorism, but he has no basis for such
13 a statement because he has no knowledge of what
14 acts that they actually committed or were
15 imprisoned for.

16 We don't think we are entitled to
17 take that answer at face value. We are
18 entitled to probe what acts the prisoner was in
19 prison for to determine the reasons why the
20 payments were made, and we are entitled to a
21 witness who is prepared on these topics.

22 MAGISTRATE JUDGE FREEMAN:

23 Okay. Let me hear from the other side.

24 MR. BERGER: Yes, Your Honor.

25 This is Mitchell Berger for Defendants. I

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1 think it is important, first of all, to put
2 this in context in terms of what we are capable
3 of doing and what is necessary to do. These
4 depositions are intended to prove the so-called
5 payment predicate of the PSJVTA, the relevant
6 statute.

7 We have already served a verified
8 Interrogatory Answer that says the Defendants
9 do not contest that they have made one, at
10 least one payment that satisfies this
11 predicate. So the deposition in its entirety
12 is cumulative and overkill.

13 Putting that aside --

14 MAGISTRATE JUDGE FREEMAN: I'm
15 sorry, you have already admitted the predicate?

16 MR. BERGER: We have already
17 said we don't contest it. In other words, we
18 are not going to put on evidence to the
19 contrary to contest the payment predicate. We
20 have said we think that renders the 30(b)(6)
21 deposition on the payment predicate cumulative
22 and overkill, but they won't take --

23 MAGISTRATE JUDGE FREEMAN:
24 Wait a minute. I'm not sure I understand that.
25 Admitting something is one thing and not

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1 contesting it is something else. If there
2 needs to be an evidentiary showing and the
3 Plaintiffs need to make the evidentiary showing
4 and then you won't contest it, that's fine.
5 But if they can't make the evidentiary showing,
6 the Court has its own obligation to assure
7 itself that it has jurisdiction. It needs an
8 adequate jurisdictional basis. And if the
9 showing that the Plaintiff has made is not
10 sufficient, the Court even sua sponte can say,
11 I don't have a basis for jurisdiction and the
12 Plaintiff has the burden to demonstrate it and
13 the Plaintiff has not demonstrated it.

14 So the Plaintiff needs to have
15 enough evidence, unless you admit the fact, and
16 then the admission itself is evidentiary. But
17 if you don't admit the fact, you have to let
18 them get the evidence where they can establish
19 it; so on their showing alone, without your
20 coming in to say anything in opposition, they
21 will have enough to satisfy the Court that the
22 Court has jurisdiction.

23 MR. BERGER: Your Honor, it's
24 a fair enough introduction to my remaining
25 points, and I would like to address them, which

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1 is the relevant topic of the 30(b)(6)
2 deposition, the payments made by the Defendant
3 on or after April 18, 2020 in respect of an
4 individual's imprisonment for committing any of
5 several specified attacks, including the
6 reasons for such payments.

7 The witness was prepared to and gave
8 the reason. The reason is that lawyers at the
9 prisoners' commission evaluates the charges
10 made by the Israeli government and then makes a
11 decision as to whether the offense leading to
12 incarceration is qualifying under Palestinian
13 law. That is the reason that the witness gave.
14 Palestinian law, in turn, is consistent with
15 that answer.

16 It says a prisoner is anyone who is
17 imprisoned by the occupation, due to his
18 participation in the struggle against the
19 occupation, so that's the reason.

20 Third point is, the witness has
21 denied -- I guess this goes to your point, Your
22 Honor, about proving this actual predicate and
23 why we can't, quote/unquote, admit them. One
24 of the factual predicates is that the witness
25 is imprisoned for an act of terrorism. That's

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1 the statutory language.

2 Our client, for whom the witness is
3 a designee, denies that is an act of terrorism.
4 Plaintiffs dispute that. That's their right to
5 dispute it. We don't have to admit it.

6 Fourth point, no contemporaneous --

7 MAGISTRATE JUDGE FREEMAN:

8 Wait a minute. You are not contesting the
9 payments are made to someone in prison for a
10 terrorist act, but you are contesting that it
11 was a terrorist act?

12 MR. BERGER: We don't admit it
13 was a terrorist act, Your Honor, but we'd say
14 we are not going to contest it because we have
15 other reasons for challenging the statute. We
16 admit that payments were made. We will never
17 agree that they are payments for acts of
18 terrorism.

19 I take Your Honor's point that there
20 is a difference between not contesting the
21 application of the predicate and admitting
22 them, and we don't admit these are acts of
23 terrorism. And that is, indeed, what the
24 witness testified to.

25 In any event, the Plaintiffs want to

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1 look behind that answer. What we've told them
2 is that no contemporaneous record was made of
3 the thinking process behind the decision of the
4 Palestinian Prisoners Commission to decide
5 that, when someone is imprisoned by the
6 Israelis, that the charge for which they are
7 imprisoned is a qualifying offense. The
8 documents are consistent with that.

9 We produced documents, for example,
10 that show, and example of this is a document we
11 produced with Bates No. 1733, which is an
12 Israeli indictment that has a red stamp from
13 the prisoners commission that simply says,
14 check and verify, that's it. And that is the
15 extent of which there is a contemporaneous
16 record. These events go back almost 25 years.

17 Nonetheless, we spoke with the
18 lawyers at the prisoners commission who are
19 involved in this process on a regular basis,
20 and what they did is they explained to our
21 designee, as much as I am explaining to the
22 Court, what the process is, which is that
23 lawyers at the prisoners commission who are
24 proficient reading this indictment in Hebrew
25 and they then simply indicate that the offense

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1 charged is a qualifying offense. There is
2 simply nothing more granular in the records.

3 We produced all the records of the
4 thinking process, and no one at the prisoners
5 commission has present knowledge of anything
6 more granular. So I understand they want to
7 pursue it, but we are telling them they have
8 everything that there is. It is not a question
9 of preparing the designee. It is a question
10 that there is simply nobody who has any more
11 knowledge.

12 MAGISTRATE JUDGE FREEMAN: Can
13 someone tell me specifically what the question
14 is or the questions are that the witness was
15 unable to answer, what questions that the
16 witness could not answer?

17 MR. WICK: Yes, just a moment,
18 Your Honor.

19 MAGISTRATE JUDGE FREEMAN: How
20 many questions were there that were posed on
21 the record that the witness was not able to
22 answer? Was it a single question or was it a
23 series of questions?

24 MR. WICK: It was a series of
25 questions. We went at this a number of

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1 different ways. The witness was asked, and we
2 focused on one particular individual, one
3 particular prisoner, what security offenses was
4 Abu Wardeh in prison for so as to be eligible
5 for political offenses and, therefore, eligible
6 for payment.

7 MAGISTRATE JUDGE FREEMAN:

8 Hold on. So what offenses was the person in
9 prison for. All right. And on Defendant's
10 side, you say there is no way to ascertain
11 that?

12 MR. BERGER: What we've said
13 is that, to the extent there is information on
14 that subject, it is included in the files that
15 we have already produced, which consists of two
16 things.

17 To the extent they are available and
18 they are not uniformly available in the files,
19 it is an Israeli charging document the
20 Plaintiffs can read as easily we can, and there
21 is a red cross certificate or actual series of
22 certificates that say this person remains in
23 prison by the Israeli authorities having been
24 arrested, because it's incarceration rather
25 than the offense that leads to the prisoner

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1 payment.

2 So what we are saying is it's not
3 possible to then take those two pieces of paper
4 and say weigh that -- one of these stamps for
5 one of these decisions go back to 2002. What
6 were the lawyers thinking --

7 MAGISTRATE JUDGE FREEMAN:

8 We're starting with what is the offense the
9 person was incarcerated for, and the answer to
10 that question is it's in a document with a
11 certain Bates number that's been produced, that
12 is your client's only source of information, it
13 is equally ascertainable to the other side by
14 reading that document, you've pointed out that
15 document, and the answer is the information, as
16 far as I know, is based on this document and
17 that's all we are able to ascertain; is that
18 correct?

19 MR. BERGER: Correct, Your
20 Honor.

21 MAGISTRATE JUDGE FREEMAN:

22 Okay. And was that made clear at the
23 deposition in response to the question? That
24 the answer is X coming from this document as
25 best as I am able to ascertain or the answer

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1 was, I can't answer the question? What was the
2 answer?

3 MR. BERGER: The answer was
4 that --

5 MAGISTRATE JUDGE FREEMAN: Who
6 is speaking here?

7 MR. BERGER: Mitchell Berger
8 for Defendants, Your Honor. We believe that
9 answer was given -- look, we are having
10 translation difficulties. The questions are
11 being posed in English, answered in Arabic and
12 translated, and we only have a rough
13 transcript. But more importantly, in meeting
14 and conferring with the Plaintiffs, we have
15 told them that we would so stipulate to the
16 extent there is any ambiguity in the witness'
17 answer.

18 MAGISTRATE JUDGE FREEMAN: So
19 Defendants are prepared to say that, with
20 respect to the reason why a particular person
21 was in custody, that that answer, the only
22 information you have on that answer is in a
23 particular document which has been produced and
24 you can point to that document; correct?

25 MR. BERGER: For Defendants,

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1 precisely correct, Your Honor.

2 MAGISTRATE JUDGE FREEMAN: So
3 on Plaintiff's side, with respect to the
4 particular question of what were the charges
5 that this person was being held for, if that is
6 the answer that we have no information on it
7 that we can review, that we can use to prepare
8 the witness, we have nothing other than what's
9 in this particular document which has been
10 produced and we are willing to stipulate that
11 that is the only information we have on it,
12 what is in that document, why is that not
13 sufficient as a response?

14 MR. WICK: It's not
15 sufficient, Your Honor, because what the
16 witness is answering is that he simply has no
17 knowledge of whether or not the prisoner is
18 even in prison for the crimes that are
19 described in that document. He simply says, I
20 have not looked at the file.

21 MAGISTRATE JUDGE FREEMAN: I'm
22 sorry, I think I need the question and I need
23 the answer from the transcript so that I can
24 understand exactly what you asked and exactly
25 how the witness answered. Because if the

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1 answer was, I cannot answer the question,
2 that's one thing.

3 If the answer is, the only
4 information that we have on that is from this
5 document, which says this, and we can't tell
6 you if that's correct or not correct, it is the
7 only information we have based on that
8 document, I believe that this is the answer,
9 but that's the limit of what we can find out
10 for you, then that seems to me to be
11 sufficient. But I think it needs to be clear
12 that that's what the answer is.

13 MR. WICK: Let me -- this is
14 Ron Wick. I will read the question and answer.

15 The question again is what security
16 offenses was Abu Wardeh in prison for so as to
17 be eligible for political offenses and,
18 therefore, eligible for payment.

19 The answer was this was determined
20 after determining the file by the attorneys or
21 inspecting the file by the attorneys. I don't
22 have knowledge about that.

23 There is a followup question. So
24 you did not ask the attorneys why Mr. Abu
25 Wardeh is eligible when you talked to them to

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1 prepare for this deposition? Following an
2 objection from Mr. Berger the witness answered,
3 I don't have personal knowledge of each file.
4 It is just they collected these files and I
5 know that these prisoners are eligible for the
6 allocation based on the criteria that is used
7 to determine eligibility.

8 MAGISTRATE JUDGE FREEMAN: I
9 don't hear anything in that answer saying that
10 the information we have on that with respect to
11 that person and perhaps others as well is in
12 this document and perhaps other similar
13 documents which are Bates numbered this and
14 this and have been produced in discovery.

15 I hear, I don't know. I haven't
16 asked anybody. I can't tell you. Lawyers
17 figured it out. Right? If the answer is, as
18 counsel is saying, the information is in a
19 particular document, the document has been
20 produced, then that should be the answer as
21 opposed to, I don't know.

22 MR. BERGER: Your Honor, this
23 is Mitch Berger for the Defendants. So of
24 course Mr. Wick is reading from a later part of
25 the file, rather, the transcript, after his

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1 colleague who is doing the questioning marked
2 the indictment as an exhibit. According to my
3 notes, the indictment in issue is marked as
4 Exhibit -- it is included in Exhibit 5.

5 MAGISTRATE JUDGE FREEMAN: If
6 you go back on the record, right, and you get
7 clarity from the witness that not only his only
8 information, but after due diligence, his only
9 ability to learn information in preparation for
10 the deposition came from this particular
11 document, and there is no one else who would
12 know and there is no other source of
13 information, this is all there is, okay, then
14 you have what you have on the record and there
15 is not much we can do about it because that's
16 what the testimony is.

17 But I think you need to get it
18 clarified on the record that there is no
19 attorney, there is no other person who is
20 available for him to inquire of in order to
21 prepare to answer that question. The only
22 available information to him is this document
23 which has been provided; is that true?

24 MR. BERGER: Yes, Your Honor,
25 and we believe it to be true, so much so that

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1 we are prepared, as I say, to stipulate to that
2 formally to avoid being lost in translation
3 difficulty between the question in English and
4 the answer in Arabic and the translation of
5 phrases like due diligence. So, Your Honor, we
6 take your point and so we were trying to
7 shortcut the process by saying he can ask the
8 witness again, but that is a stipulation we are
9 prepared to make.

10 MR. WICK: This is Ron Wick.
11 All we are trying to establish is that the
12 prisoner, it is Defendant's agreement that the
13 prisoner was in prison for the act described in
14 the indictment that's in their file. And we
15 asked the witness about the indictment and
16 asked what is it, and his answer was, I don't
17 know. My information says it's either counts
18 for against the detainee or a defense document,
19 but I don't speak the Hebrew language.

20 We asked him later in the deposition
21 does he agree, so you would agree that the
22 payments were made to him by reason that this
23 imprisonment for the acts described in the
24 indictment. The witness answered, I don't
25 agree, I don't agree. He was entitled to the

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1 allocation because he was in prison and not
2 because of the rest of the indictment. That's
3 all we're trying to establish.

4 MR. BERGER: This is Mitchell
5 Berger --

6 MAGISTRATE JUDGE FREEMAN:
7 Wait a minute. I don't know if the court
8 reporter got all of those things, but just wait
9 a minute. There is more going on in that
10 questioning than, what are the charges for
11 which he is being held, okay. There is much
12 more going on in that question about why
13 payments were made and because charges
14 qualified as something and so on and so forth.
15 Right? Take it in pieces. Break your question
16 down into pieces.

17 If you establish first what were the
18 charges, you know, what is the Defendant's
19 understanding as to what the charges were for
20 which this person was being held. The answer
21 should be, understanding of the charges were
22 the charging instrument. You have it, we have
23 it. If that folder is and there is no other
24 information about what the charges are, that's
25 the end of that.

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1 Then if you start asking questions
2 about why the payment was made, if you say you
3 want to confirm the payment was made because of
4 these charges and because these charges
5 qualify, now you're getting into another area
6 where, perhaps, the payments were made because
7 somebody said, oh yeah, yeah, it's fine, make
8 the payments, right, and the person didn't go
9 behind that and didn't ask more questions and
10 just took that at face value.

11 And then you're asking the further
12 question of, well, let's go behind that now
13 when you didn't do it before and let's see if
14 there really was a justification for it. He
15 may not have that information. He may have
16 just taken something at face value and had not
17 done any further digging himself or the
18 Defendant may not have done any further digging
19 itself. And so it may not have further
20 information with which to prepare him as to the
21 results of digging if it was not at the time
22 done; right?

23 So you're making certain assumptions
24 about how the entity would know the background
25 of this more than it may, in fact, know; right?

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1 So you want to establish facts that fit within
2 a framework you -- I understand what the
3 statute says, but you want all of the pieces.
4 They may not have all of the pieces at the
5 ready for you. You may have to make some
6 inferences or you may have to get a non-party
7 witness if they were relying on somebody else.
8 Take it in little pieces. Break it down.

9 MR. WICK: That's fine, and
10 this is Ron Wick again, and we are happy to do
11 that, Your Honor. The problem is when the
12 witness disclaims knowledge of what's in the
13 actual file that he's being asked about when
14 he's been designated to testify about it.

15 MAGISTRATE JUDGE FREEMAN:
16 Well, I'm not sure -- okay, that is a problem.
17 If there is a document that's in the file of
18 the Defendant that has been produced by the
19 Defendant and he is asked questions about it,
20 what does it say, what does it mean, what is
21 your understanding of the purpose of this, what
22 was the Defendant's understanding of the
23 purpose of it and he says, I don't have any
24 idea what that document says, I can't even read
25 the language, that suggests insufficient

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1 preparation. He should know what the documents
2 are. He should know what the import of the
3 document is and he should know, you know, what
4 they're doing in the file, what the point of it
5 is and what was acted upon based upon those
6 documents and so on.

7 If he says, I can't even read this
8 document, I can't tell you what it says, that's
9 a problem.

10 MR. BERGER: Your Honor, this
11 is Mitchell Berger. I want to just respond to
12 the last part about preparation. I don't think
13 the failure is in preparation. I think the
14 failure is in the drafting of the notice. The
15 question was, for which he was prepared, what
16 were the reasons for the payment, not what were
17 the underlying charges. It was what were the
18 reason for the payment and he gave the reason
19 for the payment, which was the offenses charged
20 plus the fact that he was incarcerated plus
21 ongoing financial need of his family members
22 justified the payment. That's the reason.

23 They now want to change the way they
24 prepared the topic for which we had prepared
25 the witness to say, oh, no, no, when we said

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1 reasons, you should have known what we meant.

2 But if there was a charging document
3 in the file, that you should replicate the
4 thinking process of the people who reviewed it.
5 I mean, look, we are happy to stipulate that
6 nobody can reconstruct the thinking process.
7 But respectfully, Topic No. 2 for which this
8 witness has been prepared does not call upon
9 him to do so.

10 MR. WICK: Your Honor, I'm
11 sorry, but the --

12 MAGISTRATE JUDGE FREEMAN:
13 What is the topic that's listed in the 30(b)(6)
14 notice for which this line of questioning --

15 MR. BERGER: This is Mitchell
16 Berger. It's Topic No. 2, and I am quoting,
17 payments which are defined terms that are
18 capitalized P, payments made by Defendants,
19 directly or indirectly, after April 18, 2020,
20 to any individual, or to any payee designated
21 by any individual, following such individual's
22 imprisonment for committing any of the
23 specified attacks, a defined term, including
24 the reasons for such payments.

25 MAGISTRATE JUDGE FREEMAN: All

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1 right. So we are at least asking about what
2 the specified attacks were.

3 MR. BERGER: Right. I
4 apologize, Your Honor. Each of the records we
5 produced consists of a payment record showing
6 monthly payments after the statutory relevant
7 date plus an underlying prisoner file that
8 contains the application, the approval, the
9 submission of other documents, including where
10 available charging documents, and the
11 International Red Cross certificate, and then
12 what the witness has said is to the extent
13 there is any -- that the prisoners commission
14 of lawyers read the documents, they verify that
15 the charges qualify, they send it over to the
16 Ministry of Finance in a CD-ROM every month.
17 We then issue the payments. That's the reason.

18 What they want to do is they want to
19 say, no, no, we want to get into the thinking
20 process behind the approval decision which is
21 the reason. The approval decision is the
22 reason why the payment is made.

23 MR. WICK: Your Honor, this is
24 Ron Wick. I don't believe the word "reason"
25 can be looked at in a void when we are looking

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1 at the ultimate issue in the case, which is the
2 statute provides for jurisdiction if a payment
3 is made by reason of imprisonment for
4 committing any act of terrorism that injured or
5 killed a national of the United States, that
6 that's the ultimate issue here. And Mr. Berger
7 has read one of the two topics that we are
8 talking about.

9 The other is with respect to each
10 payment reflected on the documents the
11 Defendants produced in jurisdictional
12 discovery; A, whether the payment was made in
13 respect of a person who was imprisoned for
14 committing or died while committing an act of
15 terrorism; B, if so, the date, the location and
16 nature of such act of terrorism and whether
17 such act of terrorism injured or killed a
18 national of the United States; C, whether the
19 recipient of the payment is a family member
20 and/or designee of the person in respect of who
21 the payment was made; D, the reason for which
22 the payment was made; and E, the source of the
23 funds that were used to make the payment.

24 Clearly we are getting at what it
25 was the Defendant -- the prisoner was charged

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1 with doing that made him eligible in the
2 Defendant's eyes for these payments.

3 MAGISTRATE JUDGE FREEMAN: Let
4 me ask Defendant's counsel --

5 MR. WICK: The problem with
6 that --

7 MAGISTRATE JUDGE FREEMAN: The
8 word "reason" seems to be in there. Why did
9 you say that there was nothing in the 30(b)(6)
10 list of topics that included the reason?

11 MR. BERGER: Your Honor, I
12 read reasons as part of 2, and I'm happy to
13 address 3 for which the predicate is whether
14 the payment was made in respect of a person who
15 was imprisoned for committing an act of
16 terrorism. So the question to the witness was,
17 was this an act of terrorism? Answer, no.

18 B, if so, that's their predicate, we
19 didn't write it, if so, the date, location and
20 nature of such act of terrorism and whether
21 such act of terrorism injured or killed a
22 national of the United States. Since we deny
23 the predicate, there is no ability or reason to
24 prepare -- and then it continues on to D, the
25 reason for which payment was made, again,

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1 modified by, if so.

2 So what we have done we have given
3 him in those instances Topic 2 and Topic 3,
4 both of which use the reason, the same reason,
5 a lawyer at the Palestinian Prisoner Commission
6 evaluated the information that was available,
7 determined that the incarceration was for an
8 offense that qualified under Palestinian law
9 for engaging in resistance to the occupation
10 and, therefore, they approved it.

11 That's the reason in all instances,
12 and what they want is to go several layers
13 behind why did that prisoners commission lawyer
14 reach that decision, and the answer is if we
15 knew, we would tell you. It's not available.

16 MR. WICK: Your Honor, this is
17 Ron Wick. The witness testified that the
18 payment was not made in respect of a person who
19 was in prison for committing an act of
20 terrorism and that he wasn't in prison for
21 committing an act of terrorism after testifying
22 that he wasn't familiar with the indictment and
23 didn't know what act he was in prison for. He
24 had no basis for testifying it wasn't an act of
25 terrorism because he simply has no knowledge

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1 and was not prepared to discuss what acts the
2 prisoner was committing.

3 MAGISTRATE JUDGE FREEMAN:

4 Hold on a second. Someone dropped off the
5 line. Did I lose Mr. Berger?

6 MR. BERGER: I'm sorry I
7 dropped off. This is Mitchell Berger. I am
8 back again.

9 Your Honor, there was an answer to
10 that and, again, they don't want it, which is
11 the Palestine Authority -- this is becoming a
12 calamical examination -- the Palestinian
13 Authority's general view is that when someone
14 is imprisoned by the Israelis, right, that the
15 Palestinians don't regard the Israeli charges
16 as acts of terrorism because of the political
17 differences between them. The Plaintiffs are
18 free to prove whatever they want to about these
19 charges. They want to call them acts of
20 terrorism under US law, but that's argument to
21 your question. He's given the answer, which is
22 he doesn't regard it as acts of terrorism and
23 the followup question is --

24 MAGISTRATE JUDGE FREEMAN:

25 Basically it doesn't matter what the charges

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1 are. He would take the position that
2 regardless of what the charges are, they would
3 not be acts of terrorism.

4 MR. BERGER: Precisely, Your
5 Honor.

6 MAGISTRATE JUDGE FREEMAN:
7 They could be a charge of deliberately setting
8 a bomb in a civilian location and telling
9 everybody, you know, you're all going to die
10 and I am trying to terrorize you, and they
11 would say not an act of terrorism because of
12 the political differences between the PLO and
13 Israel. So, therefore, whatever it is, no
14 matter how characterized, no matter how
15 charged, the Palestinian Authority would take
16 the position it's just not an act of terrorism;
17 is that right?

18 MR. BERGER: I think that's a
19 fair summary, Your Honor.

20 MR. WICK: Your Honor, they
21 are entitled to characterize something as an
22 act of terrorism or not an act of terrorism
23 however they wish. We are happy to take care
24 of that at the evidentiary phase. We just want
25 to find out what act he was in prison for.

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1 That is all we are asking.

2 MAGISTRATE JUDGE FREEMAN: It
3 is not all that you have asked. Clearly it is
4 not all that you have asked. And it sounds
5 like the answer to that question of what were
6 you in prison for, what was the person for whom
7 a payment was made in prison for, it sounds
8 like you can get a clarified record or a
9 stipulation if you prefer that where the answer
10 to that question is, everything we know about
11 what the person was in prison for is on the
12 charging document, it has been produced, here
13 it is. Okay, we have it, you have it. You can
14 read it. We can read it.

15 If that's all you want to know what
16 the person is charged with, the answer is
17 provided.

18 If what you want to know is was the
19 payment then made because it was an act -- in
20 connection with an act of terrorism, they are
21 going to say, whatever these charging documents
22 were, any and all of them, any and all people,
23 whatever they are, it doesn't matter, we
24 consider them not acts of terrorism, then they
25 consider them not acts of terrorism and you

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1 can't consider it otherwise. If they made that
2 clear, they made that clear.

3 And if they say, we don't need
4 further information to make that determination
5 because it's a blanket determination, then so
6 be it, that's the testimony. If you get that
7 clarified, that's what it is.

8 And if the question of why did
9 somebody outside, the lawyer outside recommend
10 that a payment be made or say it qualifies and
11 you should make the payment, if they just took
12 that as -- on its face, okay, then we'll make
13 the payment without inquiring further, then
14 that's the answer to that.

15 If you want to delve into why the
16 lawyer or whatever it was said it qualifies,
17 then you probably have to depose that lawyer.

18 MR. WICK: And we could depose
19 that lawyer, Your Honor. I mean, this is a
20 30(b)(6) deposition, and we thought we were
21 going to get a witness who would be able to
22 testify as to why that decision was made and
23 why that payment was made.

24 MAGISTRATE JUDGE FREEMAN:
25 Well, if the person has testified that the

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1 reason the decision was made is because
2 somebody, some lawyer person or people, said it
3 qualifies and that's it, and that's as far as
4 they go and because they said that they paid,
5 if that's the testimony, then the person is
6 answering the question that is within the scope
7 of the 30(b)(6).

8 If the person says it was analyzed,
9 it was discussed, lots of people within the
10 organization considered it, I can't really tell
11 you what that consideration was, I can't really
12 tell you what the reasoning was, I didn't read
13 documents about it, I didn't ask questions
14 about it, then you have an unprepared witness.

15 But if the answer is, we were told
16 it qualifies, we don't go beyond that, we then
17 just pay, then you have a qualified witness who
18 has prepared and has given you the answer.
19 Maybe a not very satisfying answer, but it
20 sounds like it's an answer.

21 You've got to watch out for
22 questions that lump a whole bunch of things
23 together in one question because if some
24 predicate part of the question is not something
25 that the witness is going to buy into, your

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1 whole question falls. If the whole question
2 assumes there is a potential act of terrorism
3 in there and the witness will not buy into
4 that, you're not going to get anything out of
5 this question.

6 MR. WICK: Understood, Your
7 Honor, and although we did pursue that line of
8 questioning at Mr. Berger's urging, we asked a
9 number of questions about what the individual
10 was charged with, what's in the indictment, and
11 what we received from the designated 30(b)(6)
12 was, I don't know what acts he was charged
13 with, I don't know what's in the indictment.
14 All I know is --

15 THE COURT: Okay. So. Look,
16 it sounds from counsel like that that's not
17 what the reality is, and if that's so, then
18 defense counsel, you should make sure you get a
19 witness who can give accurate testimony.

20 If the answer is, I do know what the
21 person was charged with, at least as best as I
22 am able to determine, it's what's within in
23 document. I don't know anything beyond that,
24 though. We don't know anything beyond that.
25 There is nowhere to look or discover beyond

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1 that. You have the document. We have the
2 document.

3 I mean, maybe what he was saying is,
4 I don't know the truth or falsity of the
5 document, but this is what I got, but you need
6 to get a record clear on that point. It sounds
7 like it may not currently be clear on that
8 point. So go back and clarify it or do it by
9 stip.

10 We can't keep going around in
11 circles. If you want to mark certain things
12 for a ruling, specific questions, specific
13 answers, a series of questions series of
14 answers, in light of everything you've said and
15 after a further attempt to clarify these things
16 tomorrow, come to me with the transcript and I
17 will make further rulings. And if I think the
18 witness was not, in fact, adequately prepared,
19 I will make Defendants come back with another
20 witness or the same witness better prepared to
21 give answers to the questions.

22 But I think there may be a problem
23 with how the questions are -- I think there may
24 be a problem on both sides a little bit; one,
25 how the questions are being framed, that you

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1 may be putting too much into a question, and
2 two, on the answers, what counsel is saying is
3 the truth and what you're willing to stipulate
4 to may not be exactly what the witness was
5 saying.

6 So I can take it from the lawyer but
7 the lawyer can't give testimony. What the
8 lawyer says is not evidentiary. The Plaintiffs
9 are entitled to get it from the witness, not
10 from the lawyer. And they don't have to get a
11 stip. They can try to get it from the witness.

12 So make sure your witness -- if what
13 you're saying is right and correct and true and
14 you have complete belief in it, make sure
15 you've got a witness who is saying it and
16 putting it on the transcript.

17 I have another question before we go
18 but we're going to have to cut this off, I
19 think. How are you doing with the functional
20 immunity question? I wanted to circle back
21 with you on it. I did talk to Judge Vyskocil,
22 and she did indicate to me that if you make
23 your record, if things come up at a deposition
24 and they eventually need a ruling, she would
25 like me to address that following the

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1 depositions based on whatever record you make.

2 And so I may need briefing from you
3 on that subject if you want run into problems
4 with it, but I wanted to know how you were
5 doing.

6 MR. BERGER: Your Honor, this
7 is Mitchell Berger for Defendants. And I can
8 tell you that we have taken three of the four
9 depositions that fall into that category. I
10 believe I issued a total of three instructions
11 during the course of depositions taken on July
12 8, July 22nd and July 23rd, and I think you
13 should infer from the fact that you haven't
14 heard from us on any of those dates that there
15 was no dispute over those instructions.

16 MAGISTRATE JUDGE FREEMAN: I
17 was hopeful that you were doing all right from
18 it, but since I hadn't heard from you -- what I
19 figured was, after I spoke with Judge Vyskocil
20 that if you called in with a problem, I would
21 talk to you then about how we would go about
22 getting the issue resolved. When you didn't
23 call in, I was hopeful that perhaps it would
24 not turn into something that would need my
25 further attention.

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1 But I figured since I have you now,
2 I would at least inquire.

3 MR. WICK: This is Ron Wick,
4 Your Honor. I think -- I would agree with
5 Mr. Berger. I think -- I wouldn't say we've
6 had no disputes, but we sort of worked around
7 them and we are cautiously optimistic that we
8 are able to work through this.

9 MAGISTRATE JUDGE FREEMAN:
10 Fantastic. Music to my ears. Try to stay
11 cautiously optimistic or even more so. And on
12 this issue about preparedness, my best guidance
13 is circle back over some ground tomorrow, take
14 it in very small pieces.

15 On Defendant's side, if you believe
16 the answers are as you gave me today, make sure
17 the witness is saying those things. And if the
18 witness is saying something different, then
19 you're going to have to adjust your own
20 thinking about what the answers are.

21 And if down the road you have a
22 further dispute on this and you just feel that,
23 on Plaintiff's side, you're still not getting
24 what you think you are entitled to, make your
25 record and take your chances on both sides that

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1 I may require someone to come back. Okay. And
2 at least I'll have a record of question/answer,
3 question/answer, and I'll be able to see it in
4 its entirety and not just little segments.

5 (Conference was adjourned.)

6 (At 1:11 p.m., the deposition
7 was adjourned.)
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Abdel Jabbar Salem

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C E R T I F I C A T E

- - -

I, ABDEL JABBAR SALEM, do
hereby certify that I have read the foregoing
transcript and it is a true and correct copy of
my deposition, except for the changes, if any,
made by me on the attached Deposition
Correction Sheet.

Date

Abdel Jabbar Salem

July 27, 2021

	ERRATA SHEET		REASON FOR
	PAGE	LINE	CHANGE/CORRECTION
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1 COMMONWEALTH OF PENNSYLVANIA)
2) SS
3 COUNTY OF ALLEGHENY)

4 CERTIFICATE

5 I, Karen A. Nickel, a notary public in and
6 for the Commonwealth of Pennsylvania, do hereby
7 certify that the witness, ABDEL JABBAR SALEM,
8 was by me first duly sworn to testify the
9 truth, the whole truth, and nothing but the
10 truth; that the foregoing deposition was taken
11 at the time and place stated herein; and that
12 the said deposition was recorded
13 stenographically by me and then reduced to
14 typewriting under my direction, and constitutes
15 a true record of the testimony given by said
16 witness.

17 I further certify that I am not a
18 relative, employee or attorney of any of the
19 parties, or a relative or employee of either
20 counsel, and that I am in no way interested
21 directly or indirectly in this action.

22 IN WITNESS WHEREOF, I have hereunto set my
23 hand and affixed my seal of office this 29th
24 day of July 2021.



25
Karen A. Nickel, Notary Public
Registered Professional Reporter
Certified Realtime Reporter

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